Analysis of Causes for Pendency in High Courts and Subordinate Courts in Maharashtra

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List of Abbreviations Used

ADR	: Alternative Dispute Resolution
CIS	: Case Information System
CrPC	: Criminal Procedure Code - The Code of Criminal Procedure 1973
eDISNIC	: e-District Information System of NIC (National Informatics Center)
ICT	: Information and Communication Technology
IPC	: Indian Penal Code, 1860
NBW	: Non-bailable Warrant
NCMSC	: National Court Management Systems Committee
NJDG	: National Judicial Data Grid
PAN	: Permanent Account Number
TDSAT	: Telecom Disputes Settlement and Appellate Tribunal
UT	: Union Territory

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The team seeks forgiveness if, by oversight, we have not thanked anybody who contributed, and gratefully acknowledges the invaluable comments and suggestions received from the stakeholders which have greatly enriched the report.

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Chapter 1 : Pendency in India

1.1 Introduction

The territory of India as defined under article 1 of the Constitution of India, witnessed the institution of around 2.07 crore court cases in the year 2015 in respect of all the High Courts and subordinate District and Sessions Courts. Out of these, around 17.6 lakh cases were instituted in the High Courts[1] and remaining 1.89 crore cases were instituted in all of the state District and Sessions Courts (hereinafter referred to as 'subordinate courts')[2].

The number of cases instituted during year 2015 in the various High Courts and subordinate courts is given in Table 1.1 and Table 1.2 respectively. Out of the total number of cases registered in subordinate courts, 61% were criminal cases and 39% were civil cases. Whereas in High Courts 80% of the cases registered were civil cases and only 20% were criminal. Larger proportion of civil cases in High Courts could be because of the fact that the High Courts have their original jurisdiction to take up matters relating to admiralty, will, marriage, divorce, company laws, elections and contempt of court. Moreover, the appealed cases from lower courts which contain a substantial question of law are also usually on civil side. High court also has the power of superintendence over all courts and tribunals within its territorial jurisdiction except military courts or tribunals. It also has power to transfer the cases from other subordinate courts in the state to itself. High court has the power to transfer a case pending in the lower court if it is satisfied that the case involves a substantial question of law as to the interpretation of the constitution, the determination of which is necessary for the disposal of the case. These are usually civil cases, creating a higher proportion of civil cases in High Courts.

[1] As per statistics compiled by Indiastat, accessible at www.indiastat.com/crimeandlaw/6/courts/72/highcourts/17696/stats.aspx

[2] As per statistics compiled by Indiastat, accessible at www.indiastat.com/crimeandlaw/6/courts/72/districtsubordinatecourts/17697/stats.aspx

Table 1.1 : Number of Cases instituted in year 2015 in High Courts

High Courts	Civil cases	Percentage	Criminal Cases	Percentage	Year Total
Allahabad	1,45,859	51%	1,40,167	49%	2,86,026
Andhra & Telangana	63,004	77%	19,257	23%	82,261
Bombay	83,994	75%	27,709	25%	1,11,703
Calcutta	57,410	76%	18,404	24%	75,814
Chhattisgarh	16,996	55%	13,930	45%	30,926
Delhi	31,578	69%	14,401	31%	45,979
Gujarat	44,174	55%	35,791	45%	79,965
Gauhati	17,818	71%	7,303	29%	25,121
Himachal Pradesh	21,831	84%	4,089	16%	25,920
Jammu & Kashmir	22,488	90%	2,570	10%	25,058
Jharkhand	9,700	31%	21,218	69%	30,918
Karnataka	1,28,304	88%	16,981	12%	1,45,285
Kerala	71,815	77%	21,100	23%	92,915
Madhya Pradesh	70,385	53%	62,458	47%	1,32,843
Madras	97,889	60%	64,124	40%	1,62,013
Manipur	1,843	97%	60	3%	1,903
Meghalaya	938	86%	147	14%	1,085
Odisha	33,551	47%	37,108	53%	70,659
Patna	27,073	30%	62,944	70%	90,017
Punjab & Haryana	68,635	53%	59,985	47%	1,28,620
Rajasthan	51,470	53%	45,914	47%	97,384
Sikkim	144	70%	63	30%	207
Tripura	2,197	75%	747	25%	2,944
Uttarakhand	9,999	58%	7,272	42%	17,271
Total	10,79,095	61%	6,83,742	39%	17,62,837

Table 1.2 : Number of Cases freshly instituted in 2015 in District and Sessions Courts :

States	Civil cases	Percentage	Criminal Cases	Percentage	Year Total
Uttar Pradesh	5,44,080	16%	28,26,830	84%	33,70,910
Andhra & Telangana	2,55,324	38%	4,20,532	62%	6,75,856
Maharashtra	3,65,995	21%	14,08,502	79%	17,74,497
Goa	14,848	38%	24,531	62%	39,379
Diu & Daman	795	41%	1,163	59%	1,958
Dadra & Nagar Haveli	878	39%	1,396	61%	2,274
West Bengal	1,42,735	12%	10,11,424	88%	11,54,159
Andaman & Nicobar	1,070	13%	7,131	87%	8,201
Chhattisgarh	30,622	15%	1,71,627	85%	2,02,249
Delhi	1,08,281	15%	6,22,507	85%	7,30,788
Gujarat	1,80,098	17%	8,75,598	83%	10,55,696
Assam	45,026	16%	2,29,418	84%	2,74,444
Nagaland	1,946	38%	3,189	62%	5,135
Mizoram	5,383	48%	5,913	52%	11,296
Arunachal Pradesh	2,293	28%	5,826	72%	8,119
Himachal Pradesh	69,230	23%	2,27,990	77%	2,97,220
Jammu & Kashmir	57,465	19%	2,51,025	81%	3,08,490
Jharkhand	19,694	15%	1,08,284	85%	1,27,978
Karnataka	3,29,878	26%	9,23,892	74%	12,53,770
Kerala	3,16,119	23%	10,35,893	77%	13,52,012
Lakshadweep	70	31%	157	69%	227
Madhya Pradesh	1,19,107	11%	9,64,817	89%	10,83,924
Manipur	2,627	48%	2,791	52%	5,418
Meghalaya	3,834	20%	15,334	80%	19,168
Tamil Nadu	3,35,867	28%	8,59,455	72%	11,95,322
Puducherry	7,569	36%	13,382	64%	20,951
Odisha	68,715	17%	3,33,208	83%	4,01,923
Bihar	72,008	16%	3,70,464	84%	4,42,472
Punjab	1,66,763	29%	4,08,283	71%	5,75,046
Haryana	1,58,801	28%	4,14,152	72%	5,72,953
Chandigarh	12,389	9%	1,29,509	91%	1,41,898

Rajasthan	2,44,132	17%	11,52,237	83%	13,96,369
Sikkim	558	28%	1,467	72%	2,025
Tripura	7,669	4%	1,97,702	96%	2,05,371
Uttarakhand	25,987	12%	1,96,236	88%	2,22,223
Total	37,17,856	20%	1,52,21,865	80%	1,89,39,721

States of Punjab, Haryana, Tamil Nadu, Karnataka, Andhra Pradesh and Telangana; see one of the highest proportion of civil cases. On the other hand, states of Madhya Pradesh, Uttarakhand and West Bengal see a higher proportion of criminal cases. Among High Courts, the Patna High Court and High Court of Jharkhand saw the highest proportion of institution of criminal cases, at about 70%. Whereas, the high courts in Karnataka and Jammu & Kashmir registered only 10% criminal cases and about 90% civil cases.

As seen from Figure 1.1, the number of cases freshly instituted in High Courts is almost equal to the number of cases being disposed off. Yet, the rate of cases pending at the end of 2015 is very high. This is happening as a result of the high rate of pendency in earlier years, particularly for matters of civil nature. Similar scenario persists in subordinate courts, as seen from Figure 1.2. Thus, the courts are able to keep pendency in check, but have not reduced pendency.

Figure 1.1 : Case flow in High Courts during the year 2015

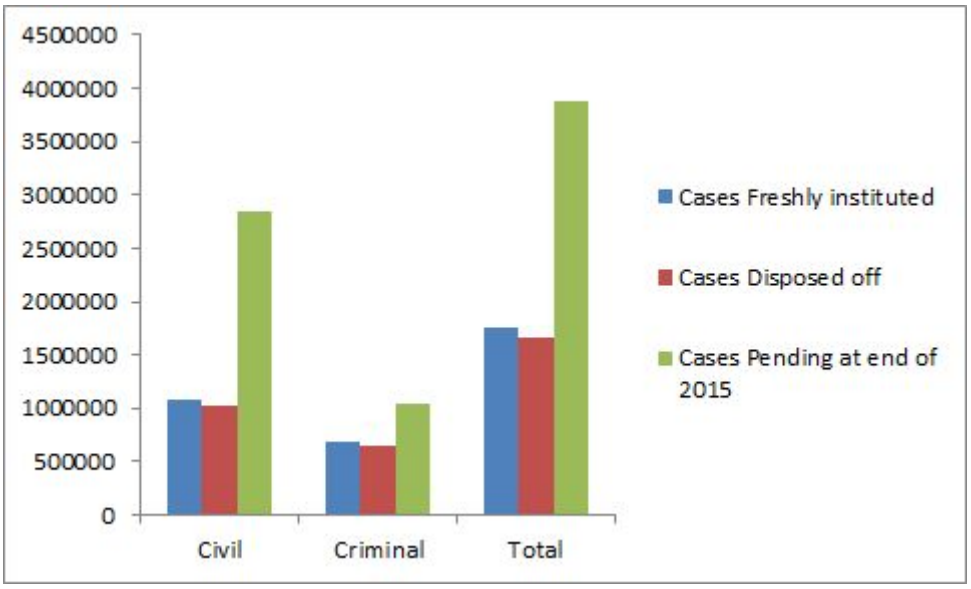
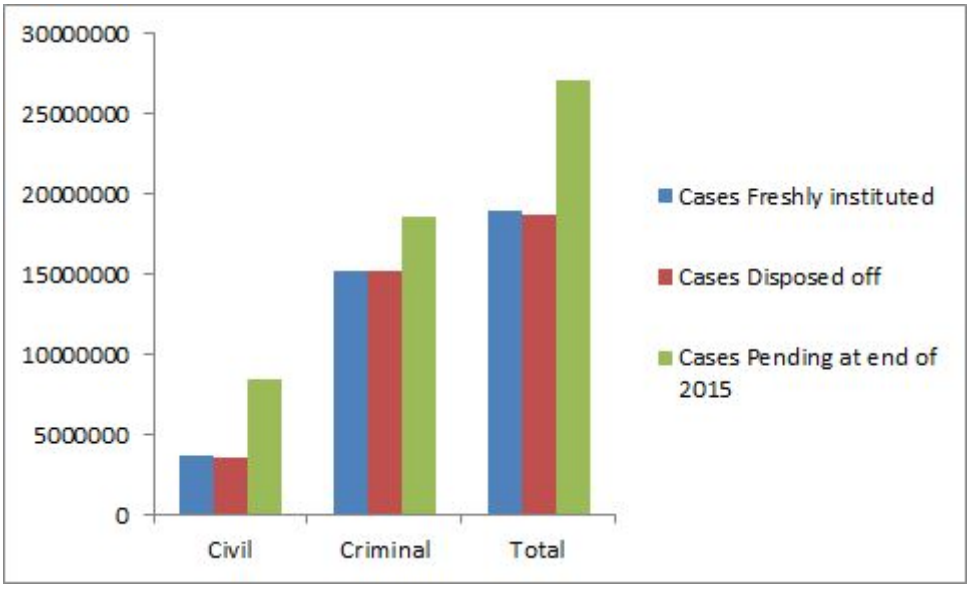


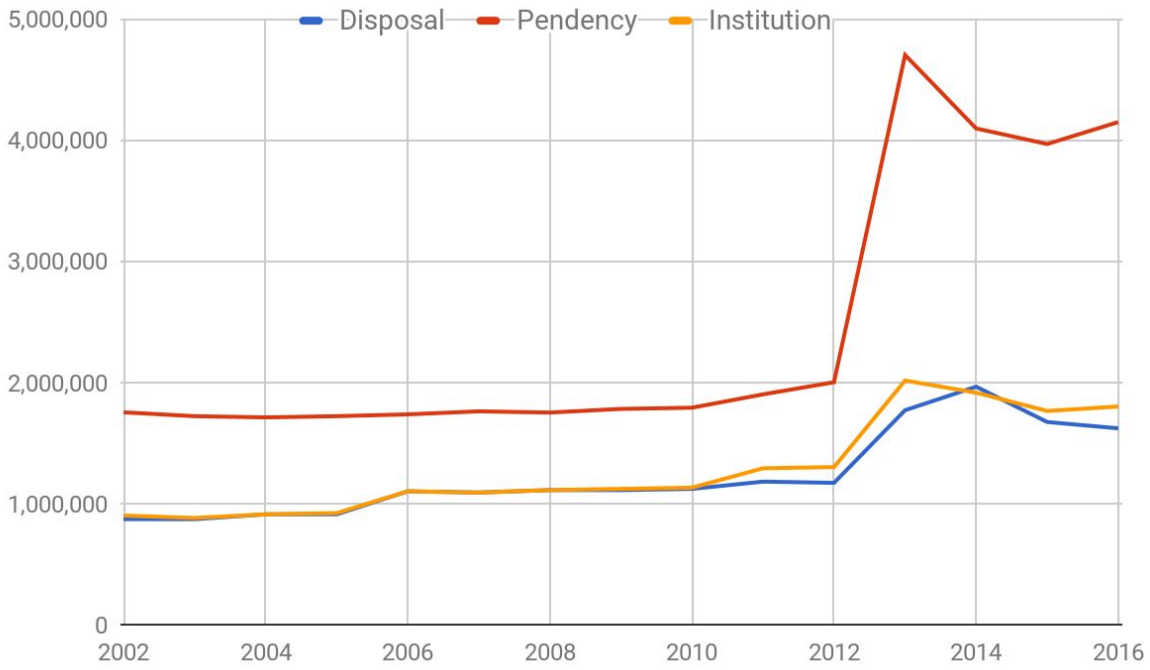
Figure 1.2: Case flow in District and Sessions courts during the year 2015



1.2 Pendency of Judicial Cases

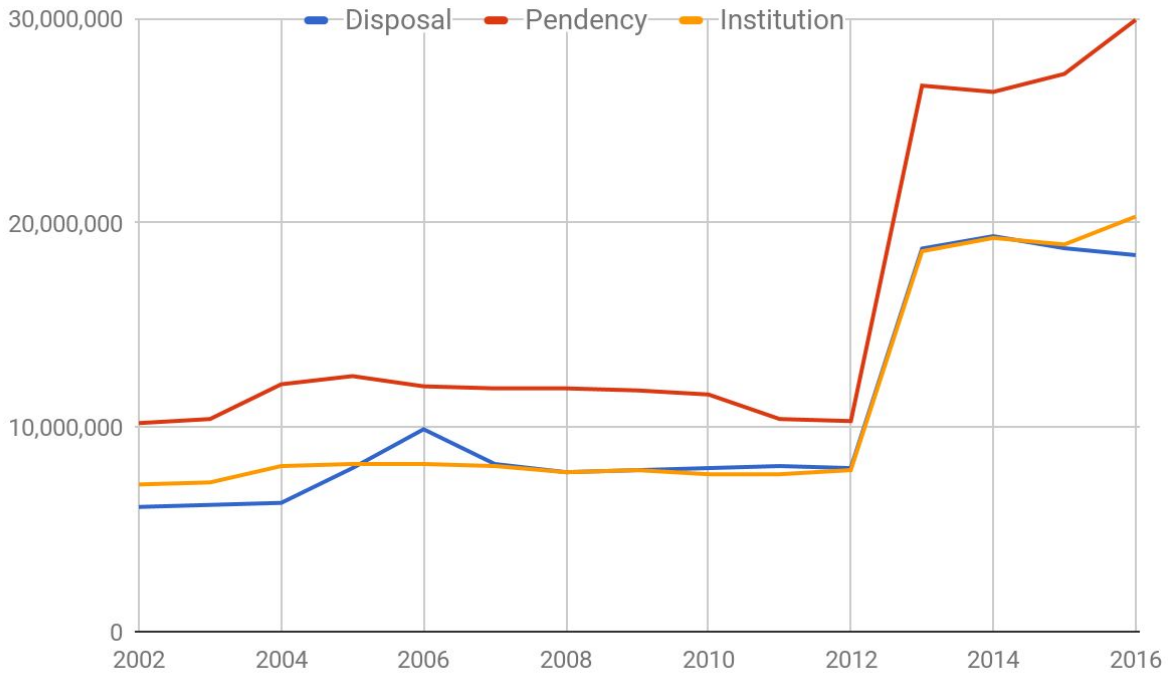
The pendency of cases has been alarmingly high in last few years. Figure 1.3 shows the increasing trend of institution, disposal and pendency since year 2003 in high courts. The step change in year 2013 is believed to be due to automated data collection through e-Courts system. Nonetheless, the secular direction of red line cannot be missed. The accumulation of cases is also evident in Figure 1.4 for subordinate courts.

Figure 1.3: Time series of Institution, Disposal and Pendency of cases in High Courts



Source: Report Number 245 of Law Commission of India for years 2002-2012. Annual reports of Supreme Court of India for years 2013-2016.

Figure 1.4: Time series of Institution, Disposal and Pendency of cases in Subordinate Courts



Source: Report Number 245 of Law Commission of India for years 2002-2012. Annual reports of Supreme Court of India for years 2013-2016.

1.3 Causes of Pendency

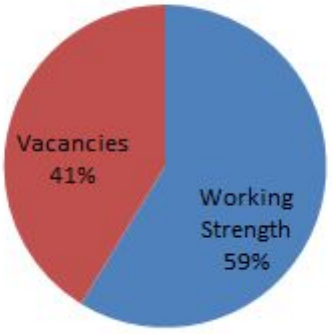
According to the Report of Supreme Court of India titled "Subordinate Judiciary-Access to Justice 2016"[3]; capacity constraints are the main reasons for high level of pendency. The report states that the mounting pendency of cases in subordinate courts is because the subordinate judiciary works under a severe shortage of courtrooms, secretarial and support staff and residential accommodation for judges. The subordinate judiciary has been working under a deficiency of 5,018 courtrooms because existing 15,540 court halls are insufficient to cater to the strength of 20,558 judicial officers as on 31.12.2015. Also 41,775 staff positions

[3] As available on the ecourts.gov website, accessible at www.sci.nic.in/pdf/AccesstoJustice/Subordinate%20Court%20of%20India.pdf

are lying vacant as on 31.12.2015. The study also reveals that based on the geographical average, one judge is available for an area of 157 sq. kilometres of the Indian territorial land.

As per the available data, the number of posts sanctioned upto the end of the year 2015, for high courts and subordinate courts were 1018 and 20,620 respectively out of which the total working strength of the judges was 598 and 16,119 respectively. This means that the vacancy ratio for the posts of judges in the high courts was 41% as shown in Figure 1.5 and in the subordinate courts was 22%.

Figure 1.5: Judges appointed and vacant positions as a proportion of sanctioned positions, as on 31st December 2015



The DAKSH Report published in July 2016[4] listed out some of the causes for the delay of court cases. The report mentions that it is not possible to identify every single cause for delay in disposal of cases at the trial court or high court level. It is also not easy to estimate what should be the desirable time frame within which a given case should be disposed of, since this requires an indepth study of the reasonable time frame within which delayed cases should also be disposed of, taking into account the capacity of the judges and the judicial system to be able to do so.

[4] As per the causes for delay, enumerated by Daksh Report-State of the Indian Judiciary, accessible at http://dakshindia.org/state-of-the-indian-judiciary/20_chapter_09.html#_idTextAnchor231

The absence of a time frame to dispose of a case is also seen in the widely divergent time periods between hearings in different categories of cases across the High Courts, even within the same High Court. While Civil Revision Petitions are decided in 77 days on an average in the High Court of Bombay, Civil Appeals take 2,303 days to be decide on average .Even across High Court there are wide variances in the average time taken to dispose of certain categories of cases as discussed above.The procedures for these cases re not vastly different and do not required taking on board evidence as in trial,through the scope of the revisional jurisdiction of the High Court is much narrower that tht appellate jurisdiction.The actual number of steps required to decide a Civil Revision Petition by the High Court are not fewer than those needed to decide Civil and Criminal Appeals seem to take much longer and involve more hearings to decide than Civil Revision Petitions.

The number of hearings and the time period taken to dispose of cases across the system suggest that there is a serious problem of cases management in procedure law in India .One possible explanation for the numbers discussed above is that adjournments are granted too easily and freely,and in the absence of a fixed time table to dispose of cases leads to delays in disposing the case .

The delays in hearing appeals and writ petitions in the High Court's, cases which have fewer procedural requirements ,are a matter of concern since there is little scope for changes in the procedures to improve the speed of disposal.One suggestion that may be made is the “case management hearing ,held after pleadings are completed between the parties,could clearly lay out a timeline for the disposal of a case and ensure adherence to this .In addition,the timelines set in the cases management hearing must be accompanied by sanctions which may be imposed by the court against parties who fail to imposed by the court against parties who fail to adhere to the deadlines.

There are of course other explanations for delays in disposal of cases and lack of efficiency, which cannot be fixed by Legislative changes. A large factor could merely be lack of judges against the sanctioned strength of the High Court in question. At present, nearly 40 per cent of seats in the high Courts are vacant and vacancy has never been below 20 per cent in the last decade.

There is of course no one magic bullet solution which can resolve the long-standing problem of backlog and delayed cases in the Indian judicial system.the magnitude of the problem requires a multi-pronged approach which,among other,should include efforts to improve the efficiency of courts in disposing of cases within a short time frame .

Table 1.3: Average Time Taken to Dispose of Certain case type

High Court	Case type	Number of days
Bombay	Civil Revision Petition	77
Orissa	Criminal Revision Petition	260
Orissa	Criminal Writ Petition	373
Kerala	Criminal Revision Petition	380
Kerala	Civil Writ Petition	511
Gujarat	Criminal Revision Petition	513
Kerala	Civil Appeals	1,075
Kerala	Criminal Appeals	1,576
Kerala	Civil Revision Petition	1,788
Gujarat	Civil Appeals	2,082
Orissa	Civil Appeals	2,162
Uttarakhand	Civil Appeals	2,242
Bombay	Civil Appeals	2,303
Bombay	Criminal Appeal	2,402
Gujarat	Criminal Appeal	2,815

Source: State of the Indian Judiciary - Report by Daksh.

Table 1.4: Average Time Taken to Dispose off Certain types of cases across High Courts :

Case type	Average number of days taken to dispose off case
Criminal Writ Petition	373.00
Criminal Revision Petition	384.33
Civil Writ Petition	523.50
Civil Revision Petition	932.50
Civil Appeals	1,972.80
Criminal Appeal	2,264.33

Source: State of the Indian Judiciary - Report by Daksh

In popular press and academic writing, cases of certain nature are believed to be a major contributor to the pendency numbers. Accordingly, special courts have been created to deal exclusively in these matters. These matters are listed below -

1. Matrimonial Cases, including dowry related cases under Section 498A of the Indian Penal Code, 1860
2. Cases under section 138 of the Negotiable Instrument Act,1988
3. Cases under the Prevention of Corruption Act, 1988
4. Petty Cases such as Traffic Challans
5. Motor Accident Claims

1.4 Impact of Pendency

One of the articles in the First Post Magazine[5] lists out the impact of pendency in the following words:

There are two aspects of delay that need to be considered in the context of a criminal trial. The first, as expressed above, deals with the time taken to complete a trial and give a judgment. The second aspect, related to pendency, pertains to the consequences of delay,

[5] Borrowed from the Magazine First Post, the article is accessible at

www.firstpost.com/long-reads/indias-criminal-justice-system-an-example-of-justice-delayed-justice-denied-3475630.html

and its effect on under trials. Criminal law proceeds on the presumption of innocence, namely an accused presumed innocent until proven guilty. However, the pendency of a criminal trial has a substantive impact on the liberty of an accused person and their presumption of innocence, especially if they are put in prison pending trial.

Globally, there are nearly 3 million pre-trial/remand prisoners or "under trial prisoners", constituting 27 percent of the total prison population. In India, the situation is much worse. As per the latest 'Prison Statistics India — 2015' Report released by the National Crime Record Bureau ("NCRB"), 67.2 percent of our total prison population comprises of under trial prisoners. That means, that 2 out of every 3 prisoners in India is an under trial, ie a person who has been accused or charged with committing an offence, but has not been convicted and is still, presumed innocent. The proportion of under trial prisoners as a percentage of the total population has only been increasing since 2000.

On the civil side, there are consequences to constitutional rights among other issues. High pendency and delays have economic costs due to lost days and state of suspension of business. It is no wonder that India ranks poorly on the Ease of Doing Business Index developed by the World Bank Group. Apart from inefficiencies from government and public administration, the justice system also has a role due to laxity on contract enforcement.

Apart from the sufferings for citizenry, there are consequences of the delays for the justice system as well. In the words of South African Chief Justice Mogoeng Mogoeng[6], these undesirable consequences are

- High cost of legal fees
- Loss of memory by witness, thereby affecting the quality of justice
- Disappearance of witnesses
- Repeat offences
- Justice system is held in disrepute
- Economic loss

[6]Taken from Opening Speech at The Provincial Case Flow Management Workshop, accessible at http://www.judiciary.org.za/doc/Speech-CJ_19-July-2012_EL.pdf

- Corruption within the justice system
- Disinterest in judicial careers
- Waste of limited resources

In view of Vijay Joshi, an eminent scholar on Indian economy, the issues arising out of pendency such as administration of justice; protection of contracts and property rights; etc. are stifling the growth in Indian economy.

1.5 Judicial Reforms

The issue of delay and arrears has been in prominence since 1958. In 1958, the 14th Report[7] of the Law Commission of India dealt with the issue of delay and arrears and identified the root cause of the problem as inadequate judge strength. For dealing with the issue pertaining to delay and arrears, different approaches have been suggested by the Law Commission and other expert bodies. These include the following methods:

a. Demographic
b. Rate of Disposal
c. The National Court Management System based unit system

In early 1980s, Manudhane Study Group looked at the issue and concluded that inadequate staff was the reason behind bottlenecks in our judicial system. The strength of staff was increased starting in year 1986.

More recently, the 230th Law Commission Report[8] quotes Justice Ganguly from his article titled "Judicial Reforms" published in Halsbury's Law Monthly of November 2008. The reforms suggested must be followed by lawyers and judges, in order to liquidate the huge backlog. The Law Commission of India has made 7 recommendations to reduce arrears in the areas of adjournments, clubbing cases, curtailing vacations and strikes, clarity and conciseness of both arguments and judgments.

[7] 14th Law Commission Report, accessible at http://lawcommissionofindia.nic.in/1-50/report14vol1.pdf

[8] As per the 230th Law Commission Report, accessible at

http://lawcommissionofindia.nic.in/reports/report230.pdf

An article in the First Post Magazine[9] suggests that various solutions have been proposed to reduce the problem of delays. This extends from increasing the strength of judges, reducing judicial vacancies, diverting cases from the courts to alternate dispute resolution forums (such as mediation and Lok Adalats) and specialised tribunals. In the criminal justice sphere, the introduction of "fast-track" courts, jail-adalats ("prison courts"), and plea-bargaining were introduced with much fanfare, although their success is yet to be demonstrated. However, even assuming that such methods succeed in reducing the pendency of cases, we have to be careful not to lose focus on the quality of substantive justice rendered. Both jail adalats and plea bargaining, reduce the backlog in courts, by encouraging accused in certain cases to plead guilty in exchange for a reduced sentence, although the taint of a conviction remains. However, serious questions have been raised about the class-bias that operates in these systems. For instance, as the recent Daksh Report noted, an accused who has been in prison for many years as an under trial, may think it is more advantageous for him to plead guilty and leave prison, rather than face the uncertainty of trial.

In June 2011, a mission mode approach was approved to increase access and enhance accountability. The National Mission for Delivery of Justice and Legal Reforms aims to undertake the following 5 items - (i) Policy and Legislative changes such as All India Judicial Service, Litigation Policy, Judicial Impact Assessment, Judicial Accountability Bill, Amendment in Negotiable Instruments Act and Arbitration & Conciliation Act, Legal Education Reforms and Retirement age of HC Judges. (ii) Re-engineering procedures and alternate methods of Dispute Resolution such as identification of bottlenecks, procedural changes in court processes, statutory amendments to reduce and disincentivize delays, Fast tracking of procedures, appointment of court managers and Alternate Dispute Resolution. (iii) Focus on Human Resource Development such as filling up of vacancy positions in all courts of judges and court staff, strengthening State Judicial Academies, Training of Public Prosecutors and ICT enablement of public prosecutors offices, strengthening National

[9]Borrowed from the Magazine First Post, the article is accessible at

http://www.firstpost.com/long-reads/indias-criminal-justice-system-an-example-of-justice-delayed-justice-denied-3475630.html

Judicial Academy and Training of mediators. (iv) Leveraging ICT for better justice delivery such as implementation of Ecourts project, integration of ICT in the judiciary and use in criminal justice delivery and creation of National Arrears Grid. (v) Improving Infrastructure such as improving physical infrastructure of the District and subordinate courts and creation of special / additional courts like Morning / Evening Courts, Family Courts and Gram Nyayalayas.

National Mission for Delivery of Justice and Legal Reforms has recognized the problem of arrears and proposed a campaign mode to reduce pendency through Pendency Reduction Campaign in second half of calendar year 2011. As a result of collective efforts across the judicial system, an increasing number of cases are being disposed. However, with increasing economic activity and increased accessibility to justice, a record number of cases are also being admitted every year.

In April 2015, during Joint Conference of Chief Ministers of States and Chief Justices of High Courts, the issue of pendency and arrears was deliberated. It was resolved to form arrears committees at high courts. Such committees have been formed and plan for clearing backlog of cases pending for more than 5 years is being prepared. In April 2016, a resolution aimed at prioritization of disposal of cases through mission mode was passed.

The National Court Management Systems Committee (NCMSC) has given an interim report on basis for computing the required judge strength of the district judiciary. The final report is expected by the end of the year, which will outline a scientific method for determining additional number of courts required. In judgment over Criminal Appeal No 509 of 2017, the Supreme Court of India has issued timelines for criminal trials and appeals. The judgment also directs High Courts to plan and monitor the speed of trials by subordinate courts and to include timelines in annual confidential reports on performance of judges.

Many of the above initiatives look at the court process from the perspective of judiciary. However, delays in the legal system are caused not only because of a shortage of judges, but also because of a shortage of police officers (who have to investigate cases and then come to court on a regular basis), prosecutors (who are often underpaid and over-worked), inadequate judicial infrastructure (overcrowded courtrooms or inadequate support staff such

as stenographers). Thus, any holistic solution will have to be cognisant of the variety of factors that cause delays, with a strong focus on empirics to understand the cause for delays. A start has been made in this direction, but there is a long way to go before speedy justice becomes a reality.

1.6 Need for the Study

The pendency of court cases is at an interesting juncture. In recent years, the judicial system has managed to cope with the ever increasing number of cases. Although, the number of cases disposed every year matches the number instituted; the number of pendent cases is stagnant. At the same time, cases pendent for five years and ten years are also increasing. Subordinate courts handle bulk of the volume of cases, and deserve to be studied in greater detail for making any meaningful difference to the system. A slew of reforms have been initiated in the last decade. There is a need to better understand the mechanism by which arrears are created in judicial system. It is also important to know the views of the stakeholders involved, as they can provide insights into the functioning of the justice delivery system.

Chapter 2 : Methodology

In the context laid out in Chapter 1, a proposal was submitted by ASCI in March 2015 and subsequently approved by the Department of Justice, Ministry of Law and Justice, Government of India. In this chapter, the methodology used to execute the action research study has been documented. The chapter contains sections on Objectives of Study, Scope, Methodology Followed and Tools for Analysis.

2.1 Objectives of Study

The study on Analysis of Causes for Pendency in High Courts and Subordinate Courts for Improved Court Management was designed to achieve the following objectives -

- Identify the causes for pendency of court cases in High Courts and Subordinate Courts by analyzing a sample of cases.
- Understand the pattern, if any, of case pendency for each class of cases.
- Identify principles to be adopted for reducing pendency and thereby improving court management.

2.2 Scope of the Study

In order to complete the study within a limited time and with limited resources, the study was designed with a specific scope of courts in Maharashtra state. Within the state, seven districts were chosen for a detailed study involving visits to courtrooms. The districts were randomly selected and submitted at the time of proposal. These districts are as follows - Aurangabad, Jalgaon, Kolhapur, Parbhani, Ratnagiri, Satara, and Yavatmal. After obtaining necessary permissions from the Bombay High Court, reproduced as Annexure 2.1, visits were scheduled in districts. The study team spent 2-3 days in each district and visited multiple courtrooms as per details given in Annexure 2.2.

The study involved comparison of statistics with other jurisdictions. Comparison with different judicial systems opens the door for alternative solutions and possibility of borrowing the positive aspects into Indian judicial system. These other jurisdictions have

been selected based on similarity with India on various parameters. Countries with other forms of governments such as communist regimes, dictatorships and absolute monarchies were omitted for this comparative study; however Constitutional Monarchies were not omitted as the monarch in such countries is largely a ceremonial figure without Executive powers. Hardly any judicial systems in the world are identical to one another as they are bound to be influenced by the local customs and traditions. It would have been illogical to select a jurisdiction based on a complete similarity to India. Based on the rationale outlined in Annexure 2.3, scope of comparison was restricted to Malaysia, South Africa, Sweden, United Kingdom and United States. Within the country, data from Maharashtra was compared with states that have performed well on reducing pendency, namely, Haryana, Himachal Pradesh, Kerala and Punjab.

The study has taken an impersonal view of the process of justice delivery. There are elements of human behavior, such as motivation, commitment to work, engagement with the organization and task ownership, that often differentiate the good from the best. This aspect was deliberately overlooked considering the fact that the study deals with subjects that form an important pillar of the world's largest democracy.

The study was done with a static view keeping calendar year 2015 as reference. In some instances, fiscal year 2015 has been used to suit the availability of data beyond the control of the study team. In reality, changes and improvements were taking place even as data was being collected and analyzed. Our analysis limited by this fact. Further, in spite of the due care taken during design of study and selecting sample at district, court and individual levels; the study can only be said to be broadly representative of the information present in a large state like Maharashtra. Keeping these limitations in mind, the inferences drawn from the study cannot be generalized beyond a point.

2.3 Research Methodology

The methodology of the study involved observation of court sittings to understand the proceedings and to understand the instances of delays. Apart from observing court sittings, the team also collected data through consultations with key stakeholders, namely judges, court officers, lawyers and litigants. Semi-structured interviews were conducted with the

help of questionnaires designed for different situations. A copy of all the questionnaires used is provided as Annexure 2.4 - 2.8. The questionnaires draw heavily from the prior literature on pendency, particularly various reports of the Law Commission.

This primary data was collected to obtain an unbiased independent estimation of the rate of pendency, a better understanding of case flow timelines and major reasons for case pendency. In addition, secondary data was collected from various databases, most notably the National Judicial Data Grid and other similar studies. Extensive comparisons were carried out with other jurisdictions such as Canada, South Africa, Sweden, Malaysia, United Kingdom, United States, etc.

In order to make an elaborate assessment, the study collected data from a random sample of court-sittings from Maharashtra state. There were in all 37 court sittings observed from different courts including special courts. To understand the opinions of judges on the matter pendency, 45 judges were interviewed in person, and another 23 judges provided their views by post. Similarly, 38 advocates and 12 public prosecutors were interviewed to understand the issues of pendency. On litigant side, 32 respondents were interviewed, at times with the help of an interpreter. In all, the survey collected opinions of nearly 200 stakeholders from the state.

To understand the reasons for pendency, the study made use of longitudinal and cross-sectional data from case history. In Maharashtra, case diaries - known as *roznama* - briefly record the business transacted on the day. The cross-sectional case history was collected from all cases listed for the visited court for the date of visit. Longitudinal history was collected for a sample of cases since their inception. A total of 2,317 case-date combinations were analyzed. Such an approach allowed capturing the historical development for caseflow, and the current practices followed in caseflow management.

A balanced research team of seven members was used for this study. The profile of the team is provided as Annexure 2.9.

2.4 Tools for Analysis

The primary objective of the captioned study was to identify causes for pendency in high court and subordinate courts. Accordingly, data from court sittings was used to understand the most likely causes for pendency in cases. This data was compared with the opinions of stakeholders regarding possible causes for pendency. Subsequently, these reasons will be analyzed to draw implementable recommendations. This analysis made use of tools of operational excellence, which have been explained in subsequent paragraphs.

1) Fish-bone-diagram (Ishikawa diagram): A fish-bone-diagram is used for identifying failure modes and possible effects. The tool is useful in analyzing and designing a complex system in aviation, defence, engineering and aerospace sectors. The technique of brainstorming possible reasons for an issue, such as delay in resolution of cases, gives possible reasons. Usually, one of the following form major reasons, and within each there could be sub-reasons - manpower, machines, methods, materials. This is an effective tool for finding higher level reasons (for instance machinery) and detailed reasons (printer jam).
2) Pareto-analysis: A pareto chart is a frequency histogram in decreasing order of frequency. The purpose of the chart is to identify the most important among a large set of factors. In judicial pendency, it could help us identify the major reasons responsible for most of the delays. As a thumb rule, it is believed that top 20% of reasons are responsible for 80% of the instances of delay or defects.
3) Process reengineering and Process-flow analysis: The concepts of process flow analysis can be used to understand the effective capacity, queue length and lead time for disposal of a case. Although, there is great variation from case to case; broad overall principles are useful in understanding the capability of the judicial process in disposing off the cases. In arriving at the throughput of the system, it is important to know the bottleneck in the system. Bottleneck is the work-station or stage within the system that has the lowest capacity. Capacity is calculated as the number of cases processed per unit time. A detailed analysis of the process would require elaborate

measurements through time-study and work-study. For the sake of present research, aggregate measures have been used in understanding the process capability.

4) Value Stream Mapping: In the move towards making processes 'lean', value stream mapping plays pivotal role. Value stream mapping employs a flow diagram documenting in high detail every step of a process. After mapping the entire process, some activities stand out as glaringly wasteful. The tool is useful to identify waste, reduce process cycle times, and implement process improvement.
5) Six Sigma Philosophy: According to the famous six sigma philosophy, a decrease in process variation leads to defect reduction and subsequent improvement in performance. Reduced variation in metrics such as time taken per activity brings predictability of operations, thereby, helping planning and coordination. Here, reduced variation does not mean reduction in average time taken, something which may not be controllable.

Statistical analyses were used to understand the linkages between causes of delay and independent variables. In some situations, simple tabulation and frequency analyses were helpful in proving the point, and were used as such. Concepts from queuing theory, stochastic calculus and probability distribution were used in comprehending the data related to frequency of cases along a time axis. Content analysis was conducted on data from interviews, discussions and open ended written responses.

This analysis was carried out with the objective to arrive at implementable suggestions with regard to case flow management, responsiveness, computerization, court structure, etc. The findings would form the basis for the prioritization of initiatives.

2.5 Structure of the Report

The rest of the report is divided into four Chapters. Chapter 3 deals with Analysis of Pendency Situation. Taking a closer look at the Indian statistics, the chapter brings out comparative statistics with other jurisdiction. The chapter ends with the issue of high volume cases that should be handled through special courts. Chapter 4 dives deep into Causes for Pendency with the help of Maharashtra statistics collected from field. The chapter highlights the loss of productive time of courts in issues such as absenteeism and adjournments. The

next most debated issue of judge strength is analysed with the help of caseload and judge-to-population ratio. The chapter also takes into account the high level perspectives of stakeholders, opening up the matter for Chapter 5. A chapter dedicated for understanding the pulse from field level, Chapter 5 records the experience and perception of judicial officers, advocates, public prosecutors and litigants. Apart from understanding the views on typical timelines, the chapter also documents our efforts in understanding the views of stakeholders regarding digitization through eCourts, Alternative Dispute Resolution, etc. In the concluding Chapter 6, findings of the report are summarized and actionable recommendations are provided. Important documents and analyses not a part of the report are shared in accompanying 60 page annexure.

Chapter 3 : Analysis of Pendency in India

3.1 Pendency of Judicial Cases

Pendency has been defined by the Black's law dictionary as "Suspense; the state of being pendent or undecided; the state of an action, etc.. after it has been begun, and before the final disposition of it." As per the Merriam-Webster dictionary the legal definition of pendency is, "the quality, state, or period of being pendent." The synonyms abeyance, adjournment, break, cessation, continuance, hiatus, interim, interlude, intermediate time, postponement, recess, respite, suspense, suspension and temporary stop are often used in place of the word pendency.

The Law Commission's Report number 245[10] remarked about pendency and other related terms. "There is no single or clear understanding of when a case should be counted as delayed. Often, terms like 'delay,' 'pendency,' 'arrears,' and 'backlog' are used interchangeably. This leads to confusion. To avoid this confusion and for the sake of clarity, these terms may be understood as follows:

a. Pendency: All cases instituted but not disposed of, regardless of when the case was instituted.

b. Delay: A case that has been in the Court/judicial system for longer than the normal time that it should take for a case of that type to be disposed of.

c. Arrears: Some delayed cases might be in the system for longer than the normal time, for valid reasons. Those cases that show unwarranted delay will be referred to as arrears.

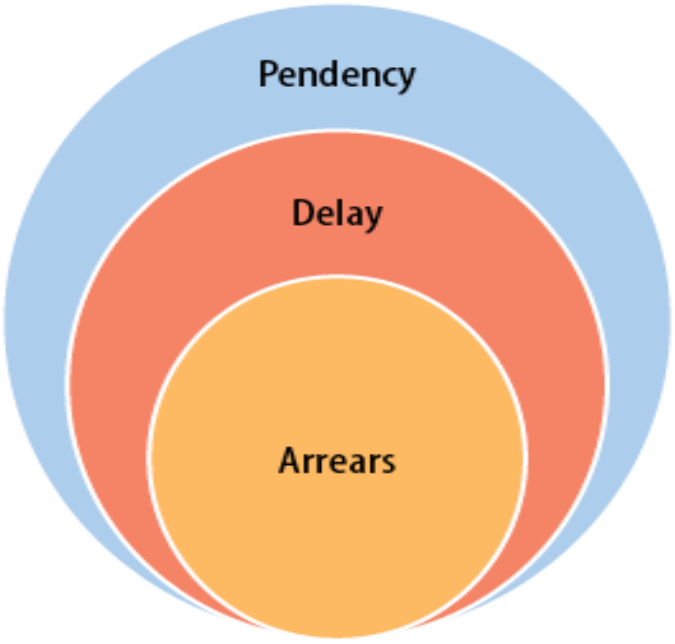
d. Backlog: When the institution of new cases in any given time period is higher than the disposal of cases in that time period, the difference between institution and disposal is the backlog.

[10] The Law Commission Report No. 245 published in July 2014, accessible at http://lawcommissionofindia.nic.in/reports/Report_No.245.pdf

Therefore, as is evident, defining terms like delay and arrears require computing 'normal' case processing time standards which can be calculated using various statistical and other techniques."

A report by Daksh[11] interprets the differentiation between these terms. 'Pendency' therefore consists of the universal set of cases which have been filed and not been disposed of, 'backlog' refers to the difference between filing and disposal of cases in a given time period, 'delay' being a subset of 'pendency' where a case has taken longer than the 'normal time' that it should take for disposal of such a case, and 'arrears' being a further subset of 'delay' where the case has taken a longer time and no 'valid reasons' explain the same.If it were to be represented as a Venn diagram, it would be as shown in Figure 3.1. Here, the term pendency implies all instituted cases that are not disposed. Delay and arrears are subsets of pendency, and arrears are a subset of delays. The definition of delay depends on rationally determined normal times. Arrears are those delayed cases where valid reasons for delay are missing.

Figure 3.1 : Representation of 'Pendency', 'Delay', and 'Arrears' by Daksh

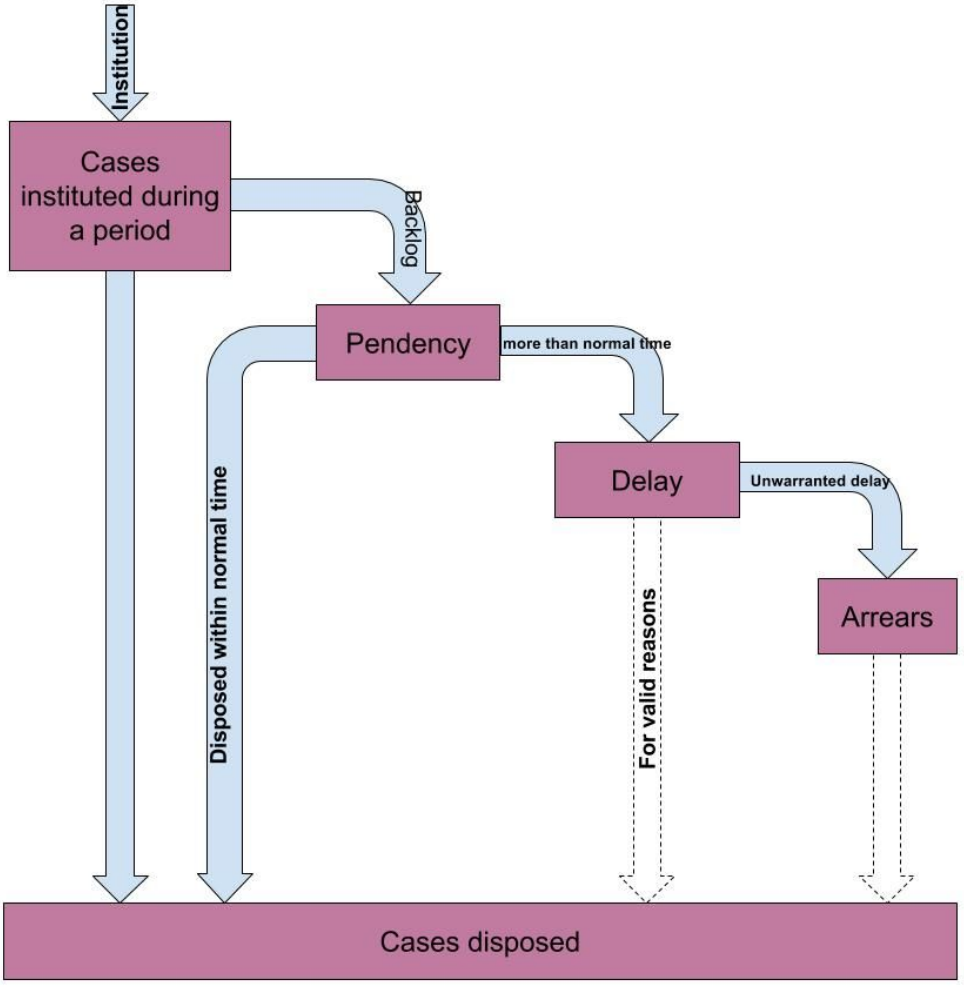


[11]Report by DAKSH- State of the Indian Judiciary, accessible at

http://dakshindia.org/state-of-the-indian-judiciary/20_chapter_09.html#_idTextAnchor231

The link between backlog and pendency can be understood with the help of diagram below in Figure 3.2. Of all the cases instituted in a given time period (say a month), some get disposed of and the remaining enter the basket of pending cases through backlog. At the same time, some of the pendent cases are also disposed of. With passing time, cases also enter the basket meant for delays and eventually arrears. In defining the delayed cases, it is necessary to specify "normal times" for disposal. These "normal times" could be specified as mandatory time limits or as guidelines. At present, such time-frames do not exist for most categories of trials.

Figure 3.2 : Flow of cases from institution to disposal



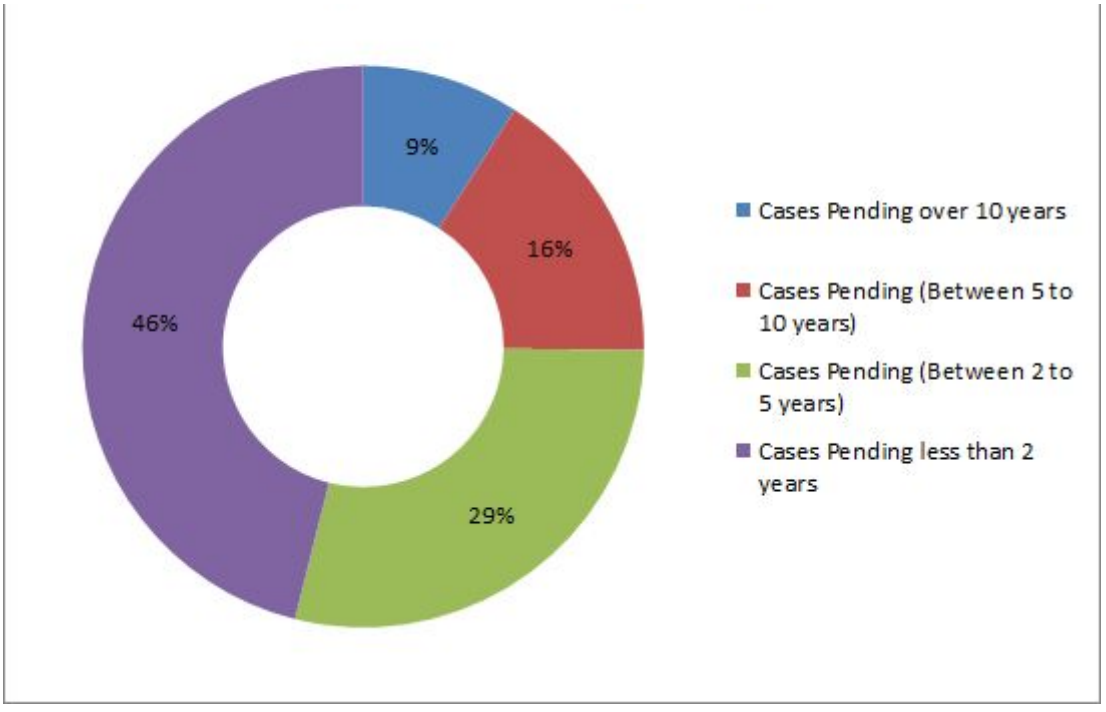
In this report, pendency rate is defined as the ratio of total pending cases at the end of year to the total cases registered in that year. Arrear rate is defined as the ratio of total cases in

arrears to the total pending cases. When a clear definition of normal times is not available, then cases older than 5 years are assumed to be in arrears.

3.2 Pendency in India

Across the country, one in four cases (25%) is over five years old, as graphically represented in Figure 3.3. The number of cases that are over five years old continues to be alarming. The number has increased from 43 lakhs in 2015 to 63 lakhs. If one considers that five years is beyond the "normal time" for any type of case, then these are the arrears in lower judiciary. The situation in Bihar, Odisha and Gujarat is of particular concern, as seen from Table 3.1. In these states, 35-40% of the registered cases are in the system for more than 5 years. The state-wise and age-wise data of pending cases in Table 3.1 was collected from National Judicial Data Grid[12] (NJDG) on 28th July 2017.

Figure 3.3 : Age-wise Break-up of Pendent Cases



[12] Accessible online at njdg.ecourts.gov.in

Table 3.1: Number of Pending Cases in Subordinate Courts by Age and State / UT

State / UT	Cases Pending for less than 2 years	Cases Pending between 2 to 5 years	Cases Pending between 5 to 10 years	Cases Pending for over 10 years	Rate of Arrears †
Andaman And Nicobar	5,144	3,224	1,895	752	24%
Andhra Pradesh	2,60,581	1,28,869	48,808	8,564	13%
Assam	1,32,365	69,658	19,194	2,535	10%
Bihar	4,79,320	4,54,157	3,67,730	2,52,448	40%
Chandigarh	31,351	6,509	772	52	2%
Chhattisgarh	1,48,083	81,146	35,634	14,425	18%
Delhi	3,79,949	1,33,712	35,477	6,250	8%
Diu And Daman	812	364	184	48	16%
Dadra & Nagar Haveli	1,697	902	588	362	27%
Goa	25,895	11,974	4,059	2,093	14%
Gujarat	6,78,981	3,95,341	3,26,193	3,53,958	39%
Haryana	4,87,788	1,21,530	5,689	376	1%
Himachal Pradesh	1,06,690	62,476	18,814	696	10%
Jammu And Kashmir	20,282	22,580	24,852	9,355	44%
Jharkhand	1,40,515	1,22,513	60,412	12,304	22%
Karnataka	7,63,934	4,23,407	1,45,449	25,375	13%
Kerala	7,21,130	2,85,229	66,262	8,784	7%
Madhya Pradesh	7,76,161	4,38,524	1,00,197	18,654	9%
Maharashtra	15,41,682	10,22,628	5,12,321	2,62,554	23%
Manipur	6,207	2,300	544	584	12%
Meghalaya	3,200	1,818	965	833	26%
Mizoram	1,696	706	312	18	12%
Orissa	3,09,102	2,86,653	2,20,697	1,74,709	40%
Punjab	4,00,890	1,22,943	13,576	1,287	3%

State / UT	Cases Pending for less than 2 years	Cases Pending between 2 to 5 years	Cases Pending between 5 to 10 years	Cases Pending for over 10 years	Rate of Arrears
Rajasthan	6,23,850	4,58,164	2,32,980	84,032	23%
Sikkim	1,404	150	2	3	0%
Tamil Nadu	4,46,283	2,90,375	1,39,393	40,238	20%
Telangana	1,93,789	1,27,297	51,470	21,936	19%
Tripura	12,507	7,787	2,634	2,883	21%
Uttar Pradesh	21,35,919	16,46,373	12,97,848	7,61,929	35%
Uttarakhand	1,29,422	59,362	19,678	4,598	11%
West Bengal	5,79,744	4,02,138	2,91,449	1,99,037	33%
Total Pending Cases	1,15,46,373	71,90,809	40,46,078	22,71,672	25%

† Cases pending for over 5 years are assumed to be in arrears.

Table 3.2 provides the age-wise break up for civil and criminal cases separately. The picture is equally grim in both civil and criminal cases. It is appalling to see the large number of criminal cases pending for over one decade. It shows that justice is delayed, and the criminals are out in the society or that the defendants are awaiting for their turn to be heard.

Table 3.2: Age-wise Total of Pending Cases in Subordinate Courts - Civil and Criminal

Pending Cases	Civil	Criminal	Total	Percentage
Cases Pending over 10 years	6,19,989	16,51,683	22,71,672	9.07%
Cases Pending (Between 5 to 10 years)	12,07,337	28,38,741	40,46,078	16.15%
Cases Pending (Between 2 to 5 years)	23,90,130	48,00,681	71,90,811	28.70%
Cases Pending less than 2 years	36,68,894	78,77,455	1,15,46,349	46.08%
Total Pending Cases	84,50,346	1,86,51,560	2,56,54,906	100%

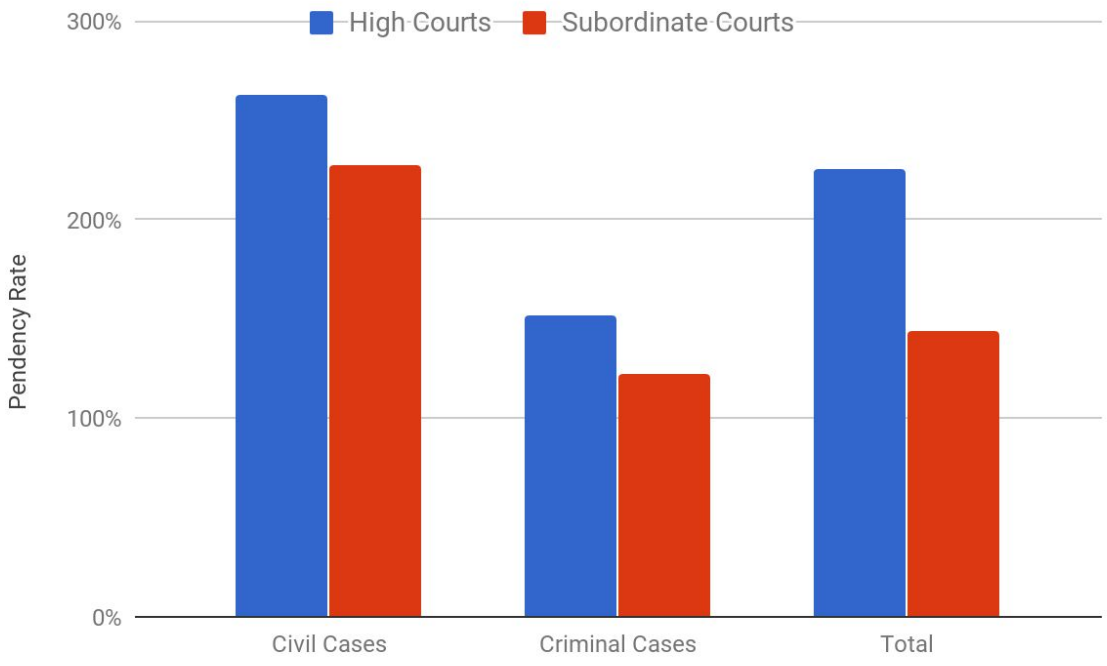
Table 3.3 shows the comparison of pendency rates in Indian high courts and subordinate courts. One can notice from Figure 3.4 that the rate of pendency is more in high courts as compared to lower courts. Pendency in high courts has a ripple effect on the lower courts, as many high court decisions become case law for the lower courts. Pendency in high courts

could also be attributed to inefficient handling of cases in lower courts which could increase caseload in superior courts through appeals.

Table 3.3: Institution and Pendency of Cases in High Courts and Subordinate Courts

	Institution ('000)	Pendency ('000)	Pendency Rate
Civil Cases in High Courts	1079	2839	263%
Civil Cases in Subordinate Courts	3718	8450	227%
Criminal Cases in High Courts	684	1036	152%
Criminal Cases in Subordinate Courts	15,222	18,651	122%
High Courts	1762	3875	225%
Subordinate Courts	18,940	27,285	144%

Figure 3.4 : Pendency Rate in High Courts and Subordinate Courts



3.3 Pendency in International Jurisdictions

Benchmarking the performance of Indian judicial system with other similar jurisdictions is taken up for a better understanding of the problems faced and the reforms implemented. These other jurisdictions have been purposively selected based on various parameters such as type of polity, type of law and judicial system, population, economic status, ranking in the rule of law index and similarity to Indian justice system. Malaysia, South Africa, Sweden, United Kingdom and United States were selected as previously highlighted in Section 2.2. Within these jurisdictions, one finds several origins for the law of the land. Yet, certain commonalities remain, which will be used during comparisons.

3.3.1 Malaysia

The Malaysian law is based on laws of different jurisdictions such as India, Australia and United Kingdom. Malaysia is a commonwealth nation which explains its heavy reliance on common law. It has a dual justice system where for its Muslim citizens, the Sharia law applies in instance of family matters, succession and on criminal side punishments for non observance of certain religious obligations. The judiciary of Malaysia is largely centralised despite Malaysia's federal constitution, although separate Syariah courts exist.

A comparison with statistics from Malaysia[13] for the same year 2015 is given in Table 3.4. Although Malaysia ranks only slightly above India in the World Justice Project Rule of Law Index, the reforms in recent years have made Malaysia a good jurisdiction to benchmark with. Across categories and jurisdiction, Malaysian courts enjoy a very low pendency rate when compared to Indian courts.

[13] Data for Malaysia has been obtained from The Malaysian Judiciary Yearbook 2015, accessible at kehakiman.gov.my/sites/default/files/document3/KomunikasikorporatHubAntbgsa/YearBook2015.pdf

Table 3.4 : Pendency Statistics from India and Malaysia (2015)

Country	India			Malaysia		
Description	Cases registered in 2015	Cases pending as on 31st December 2015	Pendency Rate	Cases registered in 2015	Cases pending as on 31st December 2015	Pendency Rate
Civil Cases in sessions courts	3,718	8,450	227%	43	16	38%
Civil Cases in Magistrates' courts	--	--	--	184	59	33%
Criminal Cases in sessions courts	15,222	18,651	123%	44	7	16%
Criminal Cases in Magistrates' courts	--	--	--	187	28	15%
Total in lower courts	18,940	27,285	144%	458	110	24%
Court of Appeal	--	--	--	3.6	2.6	72%
Civil Cases in High Courts	1,079	2,839	263%	87	48	55%
Criminal Cases in High Courts	684	1,036	151%	6.2	3.2	52%
Total in High Courts [2]	1,763	3,875	220%	97	54	56%

Notes: 1. Number of cases in '000. 2. Including Court of Appeal in Malaysia.

The situation in Malaysia was quite different in 2008, when the pendency rates were closer to the levels seen by their Indian counterparts. Through Court Backlog and Delay Reduction Program, the pendency was brought down considerably. Details of the programme are enclosed as Annexure 3.1 and salient features are listed as Table 3.5. Thus, apart from moderate increase in number of judges, a battery of softer measures were initiated during the reforms.

Table 3.5 : Basic Components of Malaysia Court Backlog and Delay Reduction Program

A	Creating an Inventory of cases
B	The purging of "closed cases" and the separation of inactive ("hibernating") cases for rapid closure or further processing (depending on the interest of the parties)
C	Introduction of "Case Management" (Pre-Trial processing of cases)
D	Introduction of a "Tracking system" to facilitate the closure of older cases
E	Introduction of Court Recording and Transcription equipment
F	Development and installation of an automated Case Management System
G	Creation of High Court Commercial Divisions to handle more specialized matters (Intellectual Property, Islamic Banking, and Admiralty)
I	In target centers, creation of "new" courts (specialized High Court divisions in Civil and Commercial Law, called the NCvC and NCC, respectively)
J	Mediation
K	Other measures such as capacity building

3.3.2 South Africa

South Africa has a mixed legal system that relies on common law for procedure, constitution, etc.; Roman - Dutch law for matters of contracts, torts, family law; and African customary law to govern the indigenous population of South Africa. Despite having nine provinces, South Africa has single national court system with Constitutional court, Supreme Court of Appeal, a High Court forming higher judiciary, Regional Courts to assist procedure at High Court, Magistrates court and small cause courts.

A comparison with statistics from South Africa[14] for the same year 2015 is given in Table 3.6. During comparison, South Africa came across as a country with elaborate reporting of various metrics such as average court hours utilized (3:30), conviction rate, and dozens of other performance indicators, that were tied to strategic objectives of the Department of Justice and Constitutional Development. Pendency is not one of the statistics tracked,

[14] Data for South Africa has been obtained from Annual Report of Department of Justice and Constitutional Development, accessible at http://www.justice.gov.za/reportfiles/anr2015-16.pdf

perhaps because the rate of pendency is low and percent of cases older than a year are below 30%.

Table 3.6 : Pendency Statistics from India and South Africa (2015)

Country	India			South Africa		
Description	Cases registered in 2015	Cases pending as on 31st December 2015	Pendency Rate	Cases registered in 2015	Cases pending as on 30th June 2015	Pendency Rate
Civil Cases in District Courts	3,718	8,450	227%	308	164	53%
Criminal Cases in lower courts	15,222	18,651	123%	748	179	24%
Total in lower courts	18,940	27,285	144%	1056	343	32%
High Courts [2]	1,763	3,875	220%	201	2	1%

Notes: 1. Number of cases in '000. 2. Including Regional Courts in South Africa. Figures pertain to 2011-12, later statistics are not accessible.

3.3.3 Sweden

The Law of Sweden is a civil law system which is dependent on statutory law[15] and it is a Nordic version of German Roman Jurisprudence. The courts are divided into two separate systems[16]: General Courts dealing with civil and criminal matters and General Administrative courts dealing with dispute between private persons and authorities. There also exist special courts dealing with special areas of laws, such as rental tenancy. The word Ombudsman owes its origin to the Swedish legal system.

A comparison with statistics from Sweden[17] for the same year 2015 is given in Table 3.7. The high ranking of Sweden in The World Justice Project is also evidenced by the low rate of pendency at only 33%. The judicial system of Sweden shows very low rates of backlog.

[15] http://ox.libguides.com/content.php?pid=276582&sid=2279057

[16] http://www.domstol.se/Funktioner/English/The-Swedish-courts/

[17] Data for Sweden has been obtained from www.hyresnamnden.se, through sources such as www.hyresnamnden.se/Publikationer/Statistik/court_statistics_2015.pdf

Although, size of Sweden is very small compared to India; there is merit in understanding the best practices prevalent in Swedish courts. As seen in the table, nearly half of the matters are handled by special courts meant for either litigation with authority (administration) or litigation involving rent and tenancy. Secondly, a large number of 'lay judges' also play an active role is speedy disposal of certain types of cases.

Table 3.7 : Pendency Statistics from India and Sweden (2015)

Country	India			Sweden		
Description	Cases registered in 2015	Cases pending as on 31st December 2015	Pendency Rate	Cases registered in 2015	Cases pending as on 31st December 2015	Pendency Rate
Civil Cases in District Courts	3,718	8,450	227%	82	35	43%
Criminal Cases in District Courts	15,222	18,651	123%	83	29	35%
Administrative Courts	--	--	--	128	34	27%
Rent tribunals and tenancy tribunals	--	--	--	35	10	29%
Total in lower courts	18,940	27,285	144%	333	110	33%
High Courts [2]	1,763	3,875	220%	59	17	29%

Notes: 1. Number of cases in '000. 2. Administrative and General Courts of Appeals in Sweden.

3.3.4 United Kingdom

The United Kingdom has three legal systems i.e. legal system of England and Wales, Northern Ireland and Scotland. English law is mother of common law, both the law of England and Wales as well as Northern Ireland are based on common law. Scottish law is based on principles of roman law and it is mainly a mixed legal system. All the three legal systems in United Kingdom have their own judiciaries but have a common Supreme Court which replaced the House of Lords as the final appellate body in the year 2009. It has jurisdiction over all of United Kingdom except on criminal side for Scotland which is looked

after by the High Court of Justiciary, the Supreme Criminal Court of Scotland. In the study, England and Wales were compared with as 89% of population resides in this jurisdiction.

A comparison with statistics from United Kingdom[18] for the same year 2015 is given in Table 3.8. A comparison of pendency rates could not be made as United Kingdom does not maintain statistics related to overall pendency or age-wise pendency.

Table 3.8 : Pendency Statistics from India and United Kingdom (2015)

Country	India			United Kingdom	
Description	Cases registered in 2015	Cases pending as on 31st December 2015	Pendency Rate	Cases registered in 2015	Cases[2] pending as on 31st December 2015
Civil Cases in Subordinate Courts	3,718	8,450	227%	1,556	NA
Criminal Cases in Subordinate Courts	15,222	18,651	123%	2,217	NA
Cases in Family Courts	--	--	--	240	NA
Total in lower courts	18,940	27,285	144%	4,013	NA

Notes: 1. Number of cases in '000. 2. United Kingdom does not maintain statistics for pendency, also confirmed via European CEPEJ survey question 78.1.4 and 91.1.1-11 from www.coe.int/T/dghl/cooperation/cepej/evaluation/2016/Par_Pays/UK-England%20and%20Wales%20data%20file.pdf

3.3.5 United States

United States has a dual sovereign legal system, a federal legal system with separate legal system for each state. The law of United States is based on the common law inherited from the English. There is one constitution for the whole of United States followed by 50 constitutions at the state level for its 50 states. The court system is also dual one with federal courts functioning along with the state court systems.

[18] Data pertains to England and Wales only, taken from https://www.gov.uk/government/statistics

A comparison with statistics from United States[19] for the same year 2015 is given in Table 3.9. Some of the data related to courts dealing with state laws is not available. However, data from two representative states - California and Connecticut has been used for drawing inferences. Indian performance is at par with the United States as far as pendency of criminal cases is concerned. However, the pendency in regular civil cases is far better in the United States. It appears that this has been achieved by creating dedicated courts that deal with bankruptcy and traffic cases, which forms bulk of civil matters. The pendency in court of appeals is distinctly better in United States. Among other things, this could be attributed to the appeal rate in India. Further reasons include original jurisdiction with Indian High Courts, which is minimal in United States Courts of Appeals and state courts studied.

3.3.6 Comparative Picture

The practices of data collection in five chosen jurisdictions are as varied as the judicial systems followed. Nonetheless, using available data, broad inferences may be drawn with the help of graphical representation given as Figure 3.5. Pendency in Indian courts, particularly for civil matters, is the highest in the benchmark jurisdictions. In appellate courts and in criminal matters, there is scope for improvement in Indian courts. In many places, the pendency rate is below 100%. Given our definition of pendency rate, this implies that the number of cases pending is smaller than the number of cases instituted in a year. This meant that many cases that were instituted within the last year (2015) got disposed of by the end of the reporting year, and very few, if any, older cases may be remaining. Analysis in following section substantiates this point.

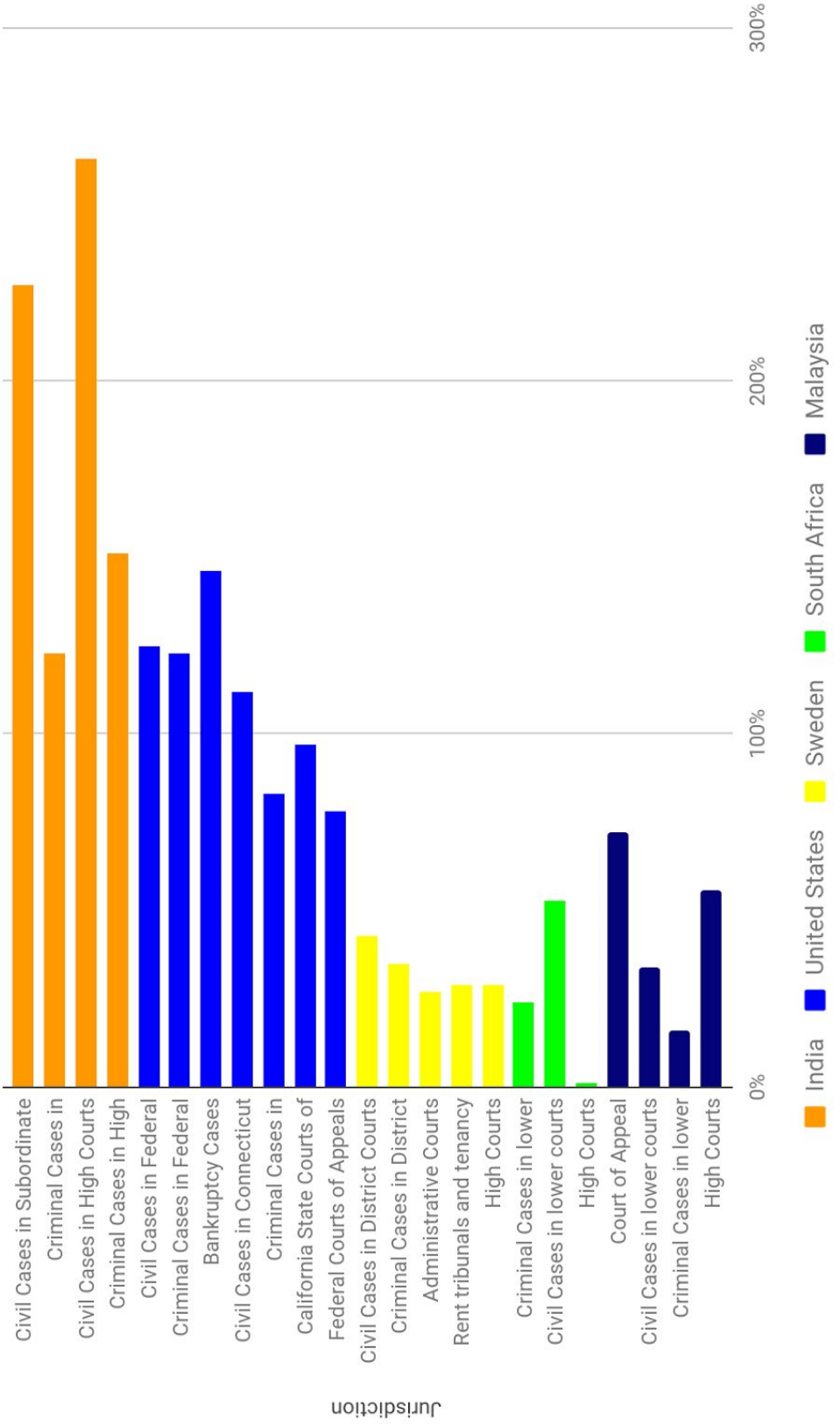
[19] Data for United States has been obtained from http://www.uscourts.gov/statistics-reports

Table 3.9 : Pendency Statistics from India and United States (2015)

Country	India			United States		
Description ↓	Cases regd in 2015	Cases pending as on 31st December 2015	Pendency Rate	Cases registered in 2015	Cases pending as on 31st December 2015	Pendency Rate
Civil Cases in US District Courts	--	--	--	277	347	125%
Civil Cases in State Courts of US	--	--	--	16,869	NA	NA
Civil Cases in State Courts in Connecticut	--	--	--	53.8	60.3	112%
Civil Cases in Subordinate Courts	3,718	8,450	227%	17,146	NA	NA
Criminal Cases in US District Courts	--	--	--	79	98	123%
Criminal Cases in State Courts of US	--	--	--	15,252	NA	NA
Criminal Cases in State Courts in Connecticut	--	--	--	95	79	83%
Criminal Cases in Subordinate Courts	15,222	18,651	123%	15,332	NA	NA
Traffic Cases	--	--	--	40,270	NA	NA
Bankruptcy Courts	--	--	--	844	1,235	146%
Total in Federal District Courts	18,940	27,285	144%	1,200	1,680	140%
High Courts [2]	1,763	3,875	220%	53	42	78%
State Courts of Appeal (excl state supreme courts)	--	--	--	133	NA	NA
California State Courts of Appeal				15.2	14.7	97%

Notes: 1. Number of cases in '000. 2. Court of Appeals with federal jurisdiction in United States.

Figure 3.5: Pendency Rates in Different Jurisdictions (2015)



3.4 Ageing in Different Jurisdictions

Table 3.10 gives a comparison in terms of age of cases in the system at the end of reporting year 2015. In some jurisdictions, the reporting year ends in June, and in others it ends in December. United States, a country of comparable size, has many pending cases that are older than 3 years and even 5 years. However, in many categories of cases, the courts in United States have fewer backlogs than Indian courts. Among smaller countries, the backlog beyond 1 year is barely noticeable. For Sweden, the backlog for 1 year is in single digits and the country does not publish statistics beyond one year. In Malaysia, cases older than 3 years are very rare. Graphical representation in Figure 3.6 depicts the gravity of the situation. Indian courts not only have higher rate of pendency, when compared to institution; they also have higher proportion of delayed cases, as a proportion of total pending cases. The wait for justice by litigants is quite arduous.

Table 3.10 : Comparison of Older Cases as a Percent of Total Pending in India, Malaysia, South Africa, Sweden, United Kingdom and United States

Jurisdiction	Cases older than 1 year	Cases older than 3 years	Cases older than 5 years
India, Civil Cases in Subordinate Courts	79%	40%	21%
India, Criminal Cases in Subordinate Courts	80%	41%	24%
India, Civil Cases in High Courts	87%	65%	49%
India, Criminal Cases in High Courts	85%	60%	43%
India, Writ Petitions in High Courts	83%	56%	35%
United States, Civil Cases in Federal District Courts (excludes bankruptcy)	50.6%	8.9%	
United States, Criminal Cases in Federal District Courts[20]	59.1%	36.3%	27.4%
United States, Bankruptcy Cases	33%		
United States, Civil Cases in California State Courts	27%	10%	
United States, Criminal Cases in California State Courts	12%		

[20] Source: Office of the US Attorneys accessed from www.justice.gov/usao/file/831856/download

Jurisdiction	Cases older than 1 year	Cases older than 3 years	Cases older than 5 years
Sweden[21], Civil Cases in District Courts	<7%		
Sweden, Criminal Cases in District Courts	<4.5%		
Sweden, Administrative Courts	<6%		
Sweden, Rent tribunals and tenancy tribunals	<6%		
Sweden, Criminal Cases in High Courts	<7%		
Sweden, Civil Cases in High Courts	<5%		
United Kingdom[22], Family Courts	<40%	Negligible[23]	
United Kingdom, Court of Appeals, Civil		Negligible	
South Africa, Maintenance matters	<15%		
South Africa, Criminal Cases in lower courts	26%		
South Africa, all cases[24] in lower courts	~24%		
South Africa, high courts	16%		
Malaysia, Court of Appeal	13%		
Malaysia, Civil Cases in lower courts	9%	0.2%	
Malaysia, Criminal Cases in lower courts	7%	0.1%	
Malaysia, high courts	10%	<1%	

Note: Some of the figures have been approximated or interpolated from available data to fit the column headings.

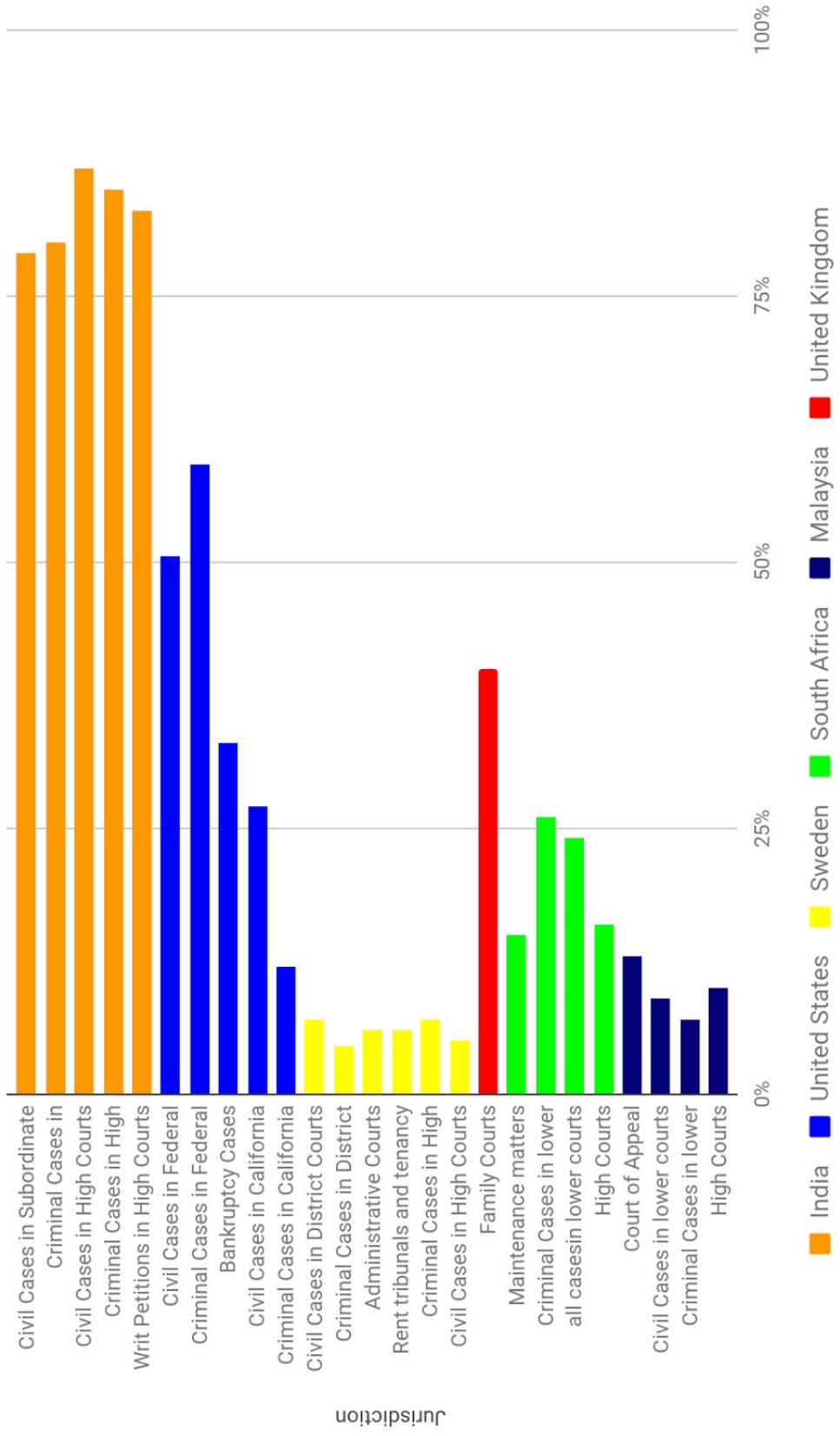
[21] Swedish data is reported for goals set by the government, usually 5-7 months. Source: Swedish National Courts Administration accessed from pages 134-136 of www.domstol.se/Publikationer/Arsredovisning/Arsredovisning_2015_SverigesDomstolar_webb.pdf

[22] Data is reported for 3 months, taken from https://www.gov.uk/government/statistics

[23] As per Practice Guidance in force in 2015, final orders were to be issued within 11-19 months of institution judiciary.gov.uk/wp-content/uploads/2015/07/hear-by-dates-practice-guidance-3-july-3.pdf

[24] Data from http://www.justice.gov.za/pqa/pqa2015/2015-q4464.pdf states backlog figure, which is defined as cases as a percent of total outstanding, that are pending for longer than 6 months.

Figure 3.6 : Cases Pending for Over One Year, as a Proportion of Pendency



Another takeaway from this section is the definition of normal time and arrears in various jurisdictions. It may be noted that the normal time, wherever it is defined, is in months. Most often it is around 6 months from the date of first hearing. In a few instances, it exceeds 12 months. The highest normal time encountered by the study team was 19 months in British Civil Court of Appeal. Moreover, the team did not encounter any instance of not considering certain cases that lag behind due to 'valid reasons'. That is to say that the distinction between arrears and delay is not maintained in any of the jurisdictions studied.

3.5 Pendency in Maharashtra

The trends in institution, disposal and pendency of cases in lower courts of Maharashtra are plotted in Figure 3.7 for civil cases and Figure 3.8 for criminal cases. In civil cases, the disposal of cases is barely catching up with the institution, thereby increasing pendency with every passing year. In criminal cases, a similar trend is observed, which is compounded by the fact that institution of new cases is on the rise.

Figure 3.7 : Institution, Disposal and Pendency of Civil Cases in Lower Courts in Maharashtra

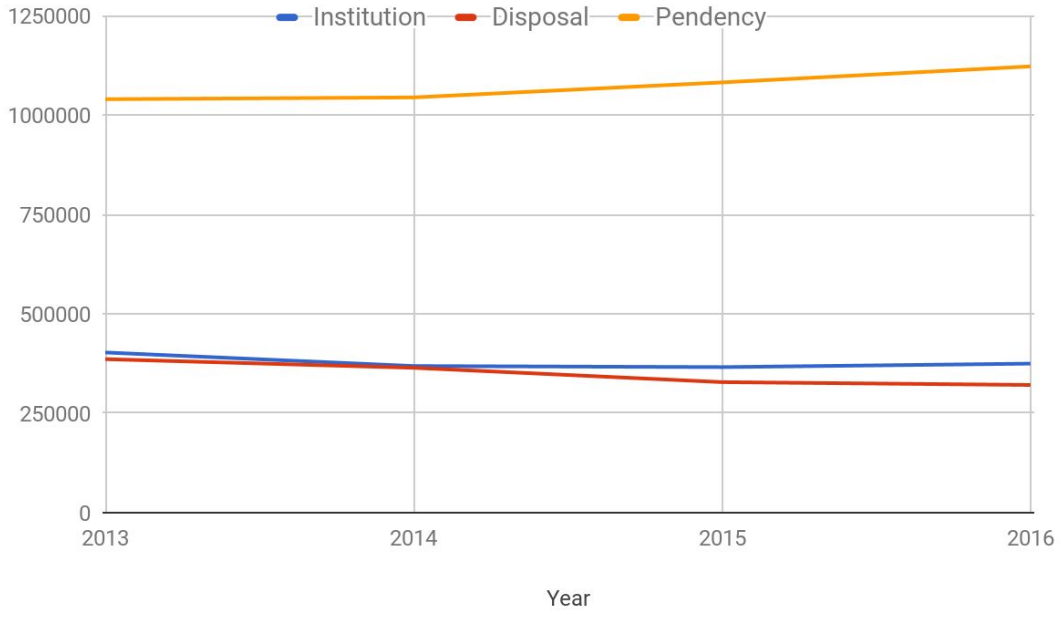


Figure 3.8 : Institution, Disposal and Pendency of Criminal Cases in Lower Courts in Maharashtra

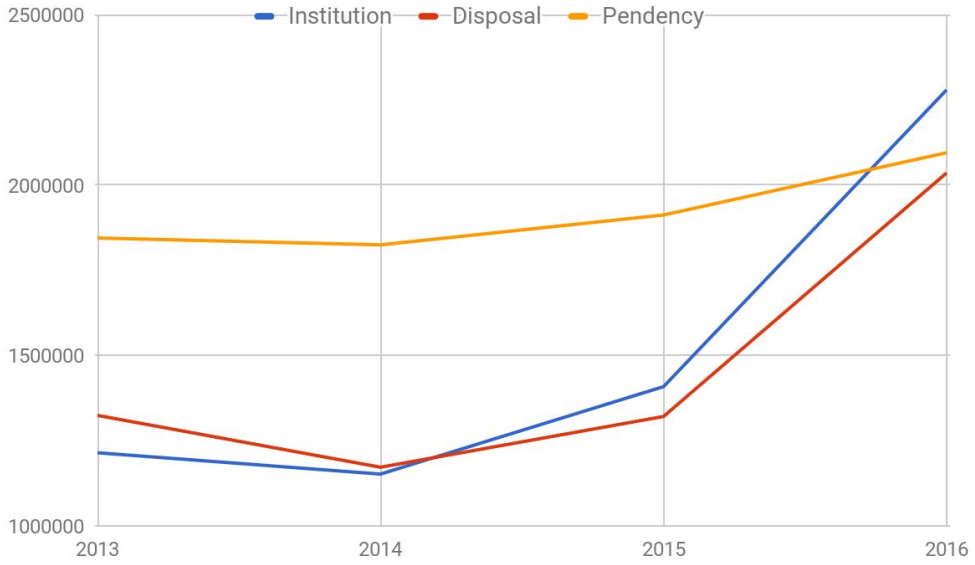


Table 3.11: District-wise Pending Cases by Age (Civil)

District	Cases Pending for less than 2 years	Cases Pending between 2 to 5 years	Cases Pending between 5 to 10 years	Cases Pending for over 10 years	Rate of Arrears †
Aurangabad	16544	14881	7982	1625	23%
Jalgaon	13920	11595	6501	1333	23%
Kolhapur	15925	14387	7600	2080	24%
Mumbai Motor Accident Claims	3875	3555	1987	8	21%
Parbhani	9740	6991	2767	237	15%
Ratnagiri	3869	2851	1315	241	19%
Satara	15142	13114	7793	2787	27%
Yavatmal	8056	6974	4206	1587	28%
State Total	**468,856**	**385,537**	**206,613**	**59,748**	**24%**

† Cases pending for over 5 years are assumed to be in arrears.

The aging of pendent cases is given for both civil and criminal cases in Tables 3.11 and 3.12. The statistics are similar to national statistics, with nearly one in four civil cases in arrears. At state level, the statistics for criminal cases are also similar, with nearly one in four cases in arrears. Among the sampled districts, the arrear rate is slightly lower at one in six cases. The difference between state average and district average is explained by huge backlog at four districts of Mumbai Chief Metropolitan Magistrate, Nagpur, Pune and Thane; which account for 50% of pendency in criminal cases and have a higher arrear rate. Table 3.13 shows the statistics related to aging of pendent cases in the High Court of Bombay. The situation is grim with nearly half of the cases in arrears.

Table 3.12: District-wise Pending Cases by Age (Criminal)

District	Cases Pending for less than 2 years	Cases Pending between 2 to 5 years	Cases Pending between 5 to 10 years	Cases Pending for over 10 years	Rate of Arrears †
Aurangabad	39880	25023	10244	2935	17%
Jalgaon	34532	16941	6867	1948	15%
Kolhapur	21879	14474	6032	2368	19%
Parbhani	20955	14246	3908	250	11%
Ratnagiri	6636	2655	612	308	9%
Satara	20138	11385	4260	1600	16%
Yavatmal	35479	24559	5843	1729	11%
State Total	**1083554**	**648215**	**304925**	**201181**	**23%**

Table 3.13: Pending Cases by Age (High Court)

Bench / Court	Cases Pending for less than 2 years	Cases Pending between 2 to 5 years	Cases Pending between 5 to 10 years	Cases Pending for over 10 years	Rate of Arrears †
	Civil Cases				
Appellate Side, Bombay	5938	21573	16956	40186	68%
Original Side, Bombay	9705	29402	20097	17197	49%
Bench at Aurangabad	9506	28413	30494	42044	66%
Bench at Nagpur	4852	9566	8546	8181	54%
	Criminal Cases				
Appellate Side, Bombay	4780	8352	6243	8420	53%
Bench at Aurangabad	1916	4370	3322	4564	34%
Bench at Nagpur	1531	2748	2327	2131	19%
	Writ Petitions				
Appellate Side, Bombay	7627	22075	11539	11342	44%
Original Side, Bombay	1086	3291	2074	2468	51%
Bench at Aurangabad	6977	14363	6586	7228	39%
Bench at Nagpur	4285	5611	2498	1664	30%
Total	**58203**	**149764**	**110682**	**145425**	**55%**

3.6 Role of High Volume Cases

In international jurisdictions compared earlier in this chapter, it was found that special courts are very effective at handling high volume cases. These special courts record a better pendency than their more generalist counterparts. For instance, a bankruptcy court in United States has a much lower pendency (33%) in spite of having a higher caseload per judge. A list of such courts is tabulated below.

Table 3.14 : List of Special Purpose Courts in International Jurisdictions

Court Name	Jurisdiction	Country / Countries
Bankruptcy Court	Filing bankruptcy under various chapters	United States, Malaysia (high court)
Traffic Court	Cases related to violation of motor vehicle / traffic rules	United States
Administrative Courts	Matters involving the government	Sweden
Rent tribunals and tenancy tribunals	Civil matters related to real estate	Sweden
Family Courts	Family matters	United Kingdom

In the large number of cases that are pending in Indian courts, many cases belong to one of the following high volume categories - Negotiable Instruments Act, Motor Vehicles Act, Hindu Marriage Act, etc. Rough estimates made by the study team using district level data from eCourts website are shared as Tables 3.15 and 3.16.

Table 3.15 : Break-up of Pending Cases by Act/Code/Rule in a Representative Criminal Court in Maharashtra

Act / Section	Percent of Total
IPC	44%
Negotiable Instruments Act	34%
Motor Vehicles Act	6%
Domestic Violence Act	3%
Total Criminal	100%

Table 3.16 : Break-up of Pending Cases by Act/Law/Rule in a Representative Civil Court in Maharashtra

Act / Section	Percent of Total
Motor Vehicles Act	35%
Hindu Marriage Act	10% †
Domestic Violence Act	2%
Prevention of Corruption Act	1%
Total Civil	100%

† An additional 6% cases registered in Family Court.

It may be noted that cases under Negotiable Instruments Act and Motor Vehicles Act contribute to about 40% of pending criminal cases, whereas Motor Vehicles Act and Hindu Marriage Act contribute to about 45% of pending civil cases. A dedicated court for each of these types of cases would streamline the caseflow. By comparing a large number of such cases, the court can analyze better and come to a conclusion faster.

A more comprehensive analysis using better access to NJDG should be taken up to understand the population level break-up of pending cases. Apart from break-up by Act or Rule, such analysis should be conducted by category of case, such as appeal, regular, application, special, bail application, etc.; stage of proceeding, such as filing of say, notice, arguments, hearing, judgement, etc. or category of applicants. A suitable platform such as eDISNIC could create a dashboard of such crucial information for case management. Regularly taking such analysis will provide inputs related to resource allocations and prioritization of court time by identifying where bulk of the pendency lies.

Chapter 4 : Causes for Pendency in Maharashtra

4.1 Process Flow of Cases

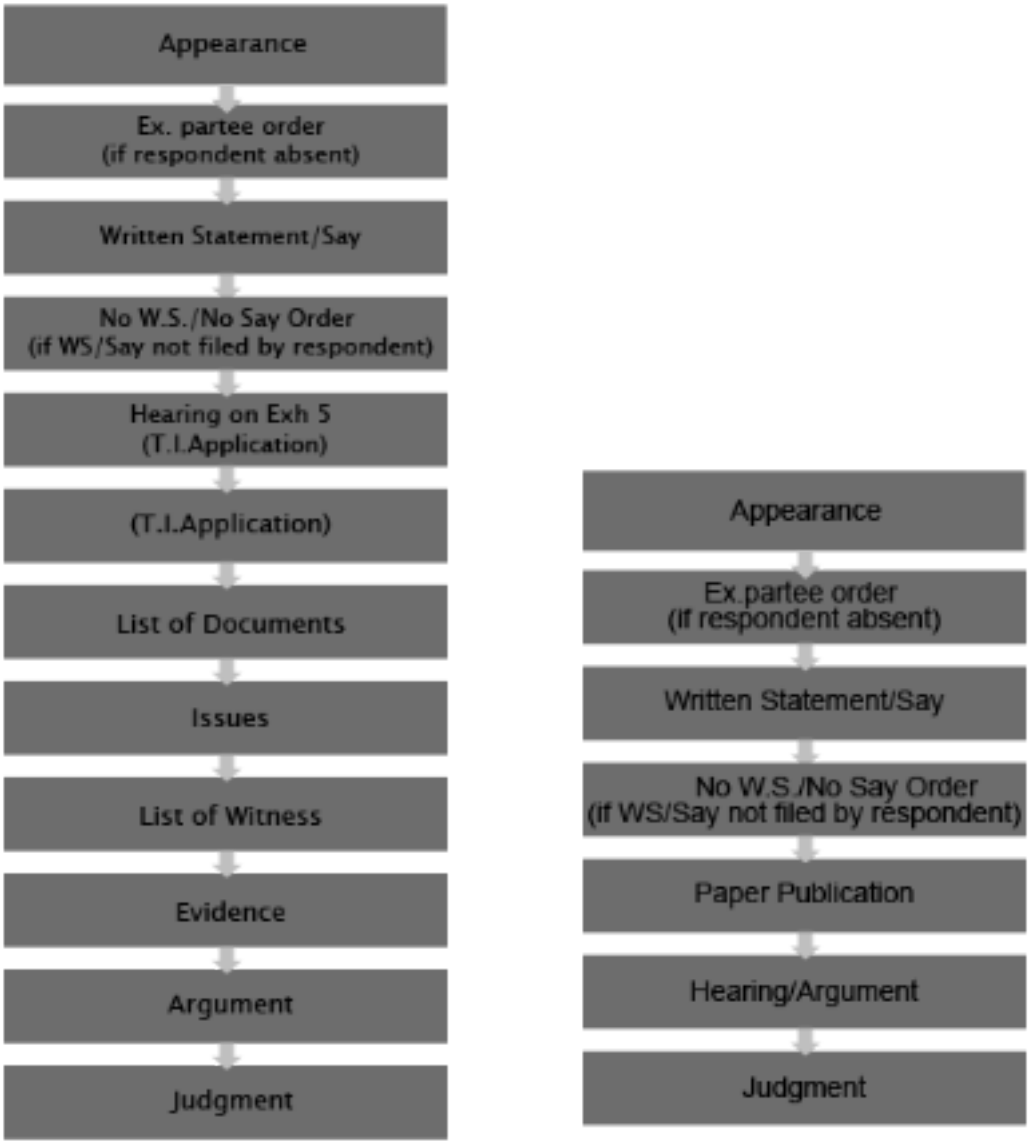
Maharashtra has 32 District and Sessions Courts, apart from four metropolitan courts in Mumbai and four special courts, namely Maharashtra State Cooperative Appellate Courts, Maharashtra Industrial And Labour Courts, Maharashtra Family Courts and Maharashtra School Tribunals. District and Sessions Courts handle normal civil and criminal matters. A total of 105 types of cases can be filed under various acts and codes at a District and Sessions Court. Another 80 types of cases can be filed at Industrial and Labour Courts and dozens of other categories exist at other special purpose courts. The High Court of Bombay has 289 case types spanning over admiralty, company law, taxation and other civil and criminal matters. The process flow varies for each type of case and each law. For seven of the most common types of cases, the process flow has been documented by District Courts website. It is reproduced in Figures 4.1-4.4.

As noted by Mandyam and others[25], lack of standardization in categorizing cases creates a big hindrance to analyzing cases. The report mentions 2500 types of cases across the country. In our experience, over 500 types of cases seen in Maharashtra were too many to handle for the scope of study. Moreover, these many types cause confusion even for legal professionals from another jurisdiction. It was but natural that each type of case could not be studied, and the team relied on law of large numbers for getting a representative sample from among all cases being tried on the days of the visit to courtrooms. For the sake of simplified data collection, a simplified process shown in Figure 4.1 was used.

Beyond the study, the excess variety in case types also causes inefficiency in logistics. In the words of a litigant, it takes one week notice just to retrieve a case docket, effort of which is in vain if the case does not get heard. Similarly, if the litigant wishes to update the docket prior to date of hearing, it becomes unwieldy and the litigant must wait for the date of hearing.

[25] Kishore Mandyam, Harish Narasappa, Ramya Tirumalai and Kavya Murthy (2016), "Decoding Delay: Analysis of Court Data" in State of The Indian Judiciary, A Report by DAKSH (page 16).

Figure 4.1 : Case Process Flow for Suits (left) and Miscellaneous Applications (right)



Source: http://court.mah.nic.in/courtweb/index.php

Figure 4.2 : Case Process Flow for Civil Appeal (left) and Sessions Case (right)

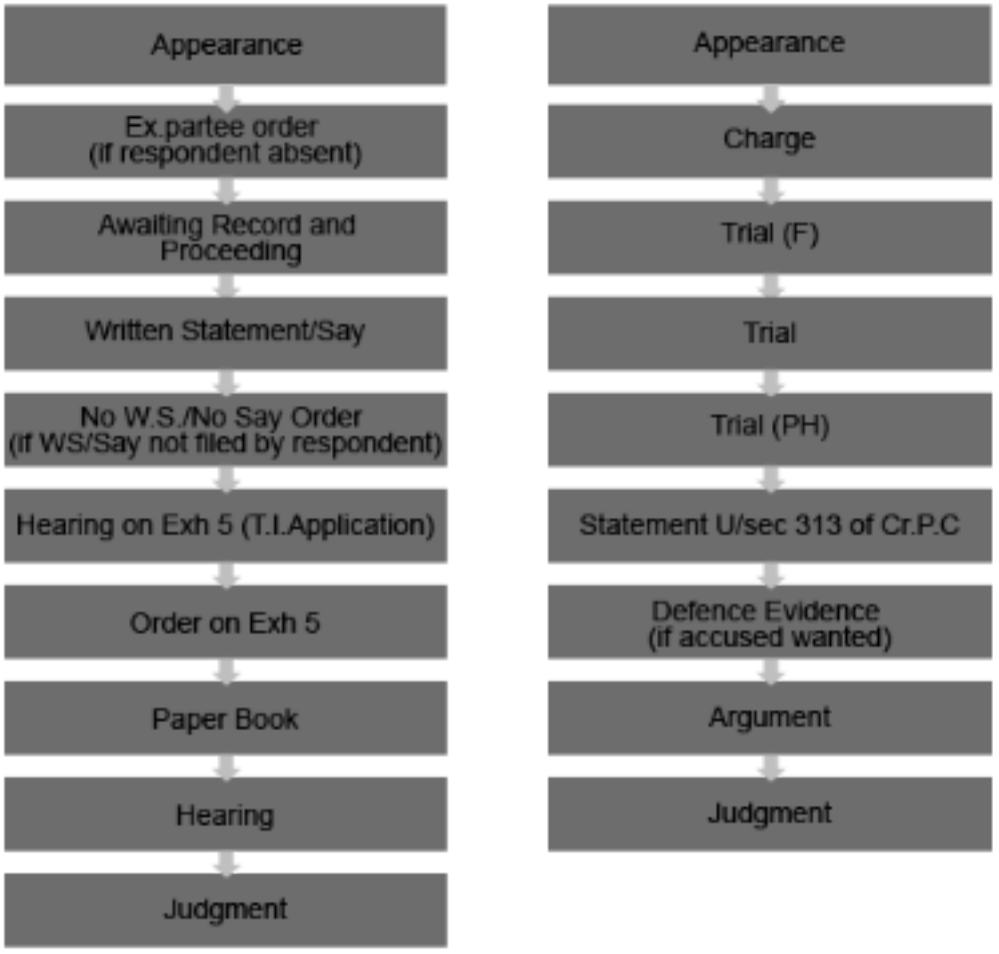


Figure 4.3 : Case Process Flow for Criminal Appeal / Revision (left) and Bail Application (right)

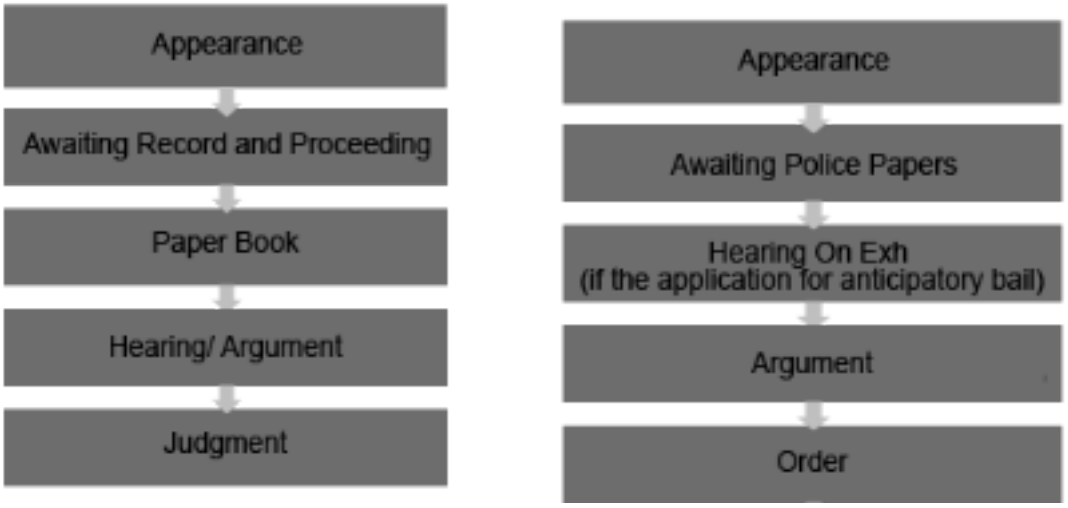


Figure 4.4 : Case Process Flow for Regular / Summary Criminal Cases

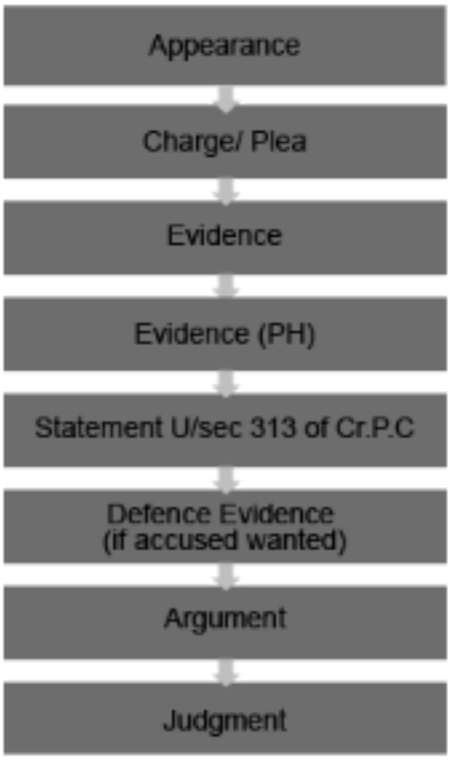


Table 4.1 : Stages in Process Flow of a Case

Civil Case	Criminal Case
Institution of suit	First Information Report
Issue and service of summons.	Investigation
Appearance of defendant.	Filing of Charge Sheet
Written Statement /Set off	Framing of Charges
Framing of issues.	Prosecution Evidence and cross- examination
Evidence	Statement of Accused
Cross Examination	Evidence of Defence and its cross examination
Final Hearing	Final Arguments
Judgment	Delivery of Judgments
Review of Decree / Appeal	Arguments on sentence
Execution of decree	Judgment with Punishment

4.2 Data Recorded at Case Level

Courtrooms in Maharashtra districts maintain records related to causelists and proceedings for the day. The study team could inspect some of the records maintained. For the current study, case diary or *roznama* was the most informative document. Every court visited by the team maintained a *roznama*, usually in handwritten format. However, the template used and the level of details recorded varied from place to place. The common minimum content was case number, parties involved, advocates, judge, and dates of hearing. The language of record was Marathi in some courts and English in others. Legibility of the handwriting was a big concern, particularly for older cases when courtroom clerk may have been different.

Nonetheless, a *roznama* provides important information about the business transacted (or not) on each date of hearing scheduled in the court for a particular case. NJDG maintains this data for all cases online, and updates the same regularly. In addition, this data is made available for the consumption of general public through English and Marathi websites such as -

1. http://ecourts.gov.in/maharashtra,
2. http://edisnic.gov.in/admin/new/default.php?lang=eng&state=MH,
3. http://services.ecourts.gov.in/ecourtindia_v5/main.php#,
4. http://court.mah. nic.in/courtweb/index.php

In order to promote uniformity in judicial data and statistics, it was resolved at the Conference of Chief Justices held in April 2015 that for statistical purposes the High Courts will count the main cases only towards pendency and arrears. Interlocutory applications will continue to be separately numbered in original proceedings before the High Courts exercising original jurisdiction.

These efforts have created a great foundation for data-driven decision making in Indian court rooms. The database maintained is rich with date-wise case level details such as law / section, presiding officer, geography (up to village level), case type, purpose of hearing, date of institution, etc. This raw data can be worked upon to create regular Management

Information System for the consumption of court managers, registrar, Principal District Judge, registrars and justices of the High Court of Bombay, and citizens. This analysis could take the form of a periodic compilation of analysis reports, an online tool with more breadth of features than NJDG, or an open access query platform on the existing database, albeit giving due considerations to data privacy issues. Ongoing analysis using the data will bring about an understanding of the reasons of pendency, much beyond this report.

4.3 Utilization of Court Time

Anecdotal evidence tells us that several cases listed on daily causelist do not get a hearing on any given day. A cursory look at the case status and history of case hearings shows a high percentage of court time being wasted due to absenteeism or lack of preparedness on the part of involved parties. In the sample of cases longitudinally studied with the help of *roznama*, meaningful court business was conducted only on 21% of case-date combinations. In other words, if a case comes up for hearing, then there is only 1 in 5 chance that the case proceedings will take place. Court time is not productively utilized on staggering 4 out of 5 instances. There are several reasons behind this, ranging from absenteeism, improper assessment of caseload (cause list too long), gaming by involved parties, matters beyond the control of parties, etc. The proportion of days of proceedings is particularly low in cases on Negotiable Instruments Act (Section 138), where less than 15% of case-dates were utilized.

The study team attempted to categorize the different proceedings recorded in *roznama* in to about 15 categories. Several notings were beyond these categories and they were recorded as such. A list of major categories is given in Table 4.2. A large number of entries were ambiguous, illegible or blank.

Table 4.2 : Categories of Proceedings Recorded in *Roznama*

List of activities when proceedings took place	Reasons when proceedings did not take place
Institution of Case and Filing of Documents	Absenteeism
Amendment	Adjournment
Filing of Pursis / Evidence	Case Transferred
Issue of Notice	Court Busy
Deposition	Presiding Officer Not Available
Cross Examination	Summons / Non-Bailable Warrant
Hearing of Arguments	Others
Order Passed	
Others	
Judgment Delivered / Decree	

At the level of our sample of case-date combinations studied, the frequency of occurrence of each of the categories is given in Figures 4.5 and 4.6. Even when business is conducted, a large amount of time is spent in uncategorized activities. High frequency activities such as 'Issue of Notice' may call for a deeper analysis to assess possibility of streamlining the activities. No discernible difference was observed between cases of civil and criminal nature or among the districts under study. Among dates on which business is not conducted for a given case, Absenteeism, Adjournment and 'Court Busy' stand out as major reasons. Addressing these three issues could improve the throughput of Indian courtrooms significantly. If our sample is any indication, these three reasons were responsible for lack of proceedings on three fifths of case-dates.

Figure 4.5 : Utilization of Productive Time of Courts

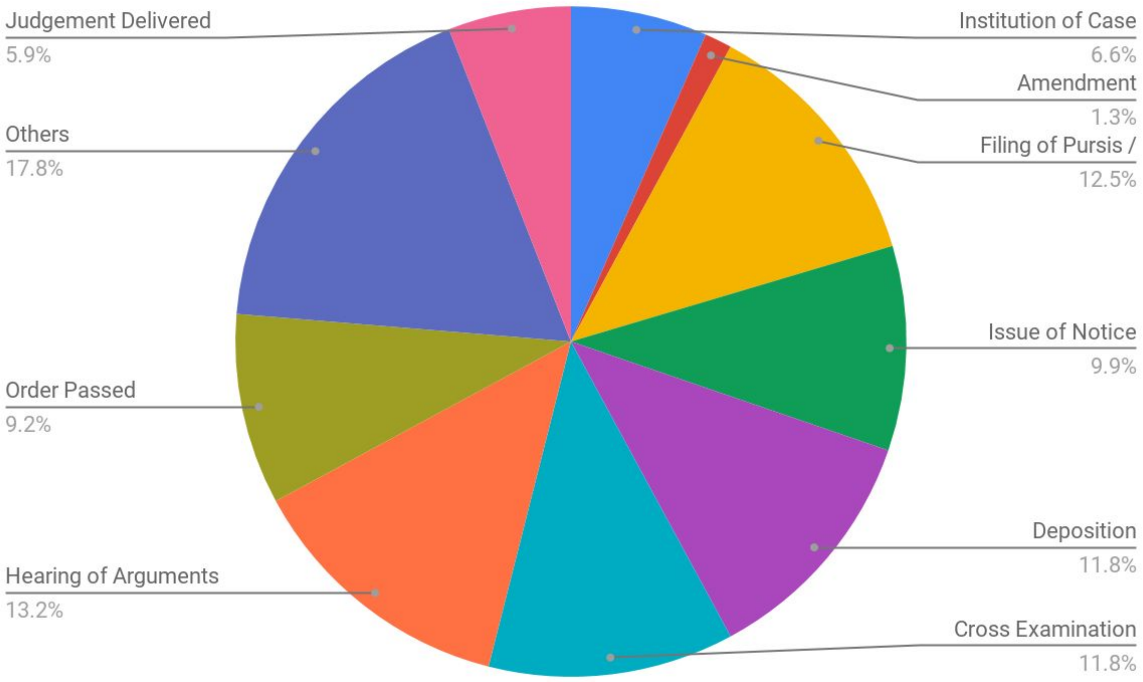
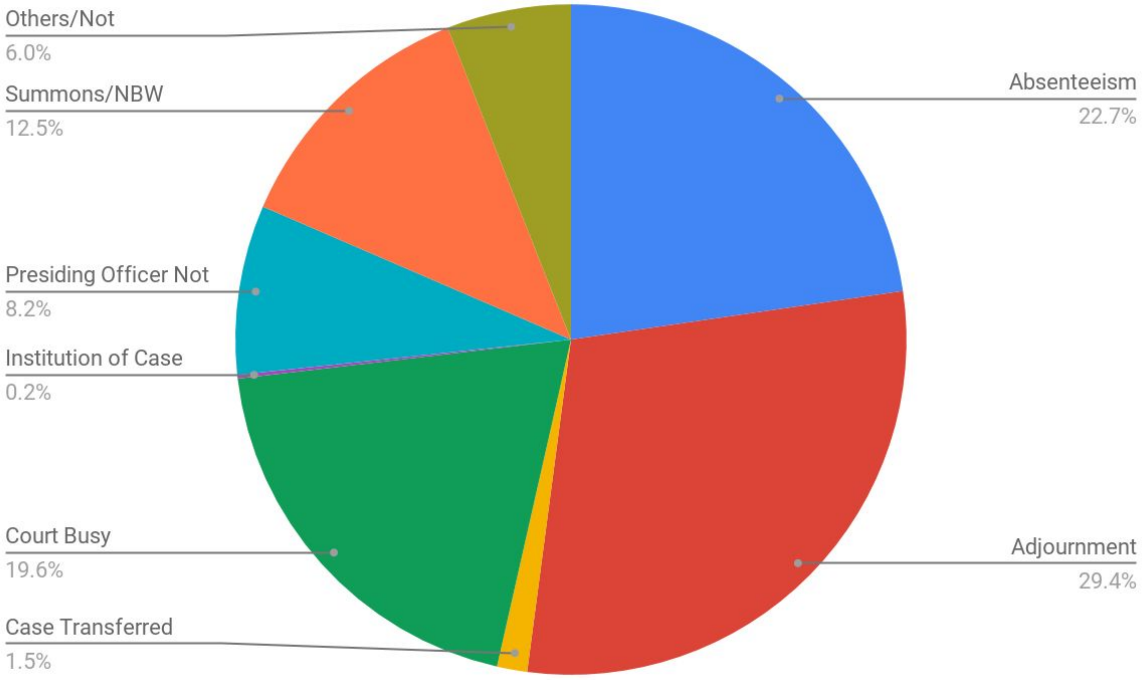


Figure 4.6 : Reasons Recorded when No Proceedings Took Place



A deeper look at each of the three major reasons - Absenteeism, Adjournment and 'Court Busy' could not be undertaken because sufficient details were not recorded in most courtrooms. Prima facie, it appeared that 'Adjournment' could also be due to absenteeism of parties. There were cases in which absence of a party (or a witness) were given Adjournment, while there were other times in which court was being adjourned for the day. Nonetheless, the major reasons point us to two major deficiencies in our justice system - escape route for respondents with callous attitude and inability to predict caseload on a given date. These two somewhat interconnected issues are elaborated upon.

1. Disproportionately high absenteeism and adjournments can be attributed to the gaming behaviour of parties that have interest in delaying the proceedings. Lenient view taken by courts on delaying tactics has resulted in litigants and lawyers conniving together to deny rightful conclusion of cases. In the words of Justice V M Kanade of the Bombay High Court, "one party who is interested in protracting the proceedings to ensure that the possession of a property remains with them or money is not repaid as directed by a lower court. Such party uses every trick in the book to ensure that the litigant successful in the lower court does not get justice. The proverb 'justice delayed is justice denied' is proved as it is denied to the poorest of the poor. Delayed decisions, piled up files and indefinitely extending project never serve their purpose and were the real roadblocks to development of any state or nation." In response to an Interlocutory Appeal, the Supreme Court recently decried "The factual narration would limpidly show that the defendant-petitioner has endeavoured very hard to master the art of adjournment and on occasions having been successful, become quite ambitious. And the ambition had no bounds; it could reach the Everestine heights or put it differently, could engulf the entire Pacific Ocean." These two quotes show the gravity of absenteeism and adjournments, as seen by the superior courts. Practical guidelines that recommend the steps to be taken when there is inordinate delay on part of defendant, prosecution, or any litigants of a civil case; or their lawyers; are the need of the hour. By signalling the intent of the higher judiciary, such guidelines will bring in discipline among erring parties.

2. Many instances of non-conduct of business are on account of court being busy with other matters. It is possible that some of the adjournments also fall in this category. This statistic is on account of improper caseflow management and assignment of dates. The average causelist was about 30 cases long in our observation of civil court rooms. Invariably, court time was over before the last 5-6 matters were heard. A good management of caseflow would ensure that the number of cases listed for business is just enough to be covered within available time. Often, more cases are added to clear backlogs or certain urgent matters are added in supplementary list. In the industrial world, there are heuristics available to take up such scheduling problems. As our experience in service industry has shown, it is possible to achieve predictable performance by balancing workload. In courtrooms, some variability in workload is expected on account of varying complexity of case and business undertaken on a particular day. To counter this problem, stochastic techniques are used in determining the ideal length of queue (causelist) for the day. An efficient solution on this account will also create a virtuous circle in which the absenteeism of litigants will go down, as currently many litigants are put off by the number of occasions on which their matter does not come up for hearing.

4.4 Duration of Pendency

In the sample of cases studied by our team, the average duration of pendency (for disposed of cases) was observed to be 5 years and 2 months. There was a wide variation in the duration, indicating varying complexity of different cases. The lowest time in which a case was disposed of was 6 months, and the highest time taken was 7 years. The average figure of 5 years and 2 months is alarming, not just from the point of view of litigants - who may no longer be interested in the outcome, but also from the toll it would take on presiding officers.

The number of days between two successive dates was observed to be 25 on average. This number is very high, giving rise to difficulties in assimilating part heard matters. The number is also indicative of the huge caseload for a judge. On an average, a judge in lower courts of Maharashtra sees institution of nearly 900 cases every year, and the figure for Bombay High Court is about 2400. This figure, while comparable to other jurisdictions,

needs to be seen in light of the duration of pendency. A judge in United Kingdom, Malaysia or United States also sees a similar and at times a higher caseload per year. However, the average time to dispose of a case in these jurisdictions is less than a year. So, at a given point of time, the judge may be handling about these many or fewer cases. The judge does not see many cases older than a year, which is the norm in our country. By extension, in a given month, the foreign judge would be seeing very few concurrent cases, in the range of 200-300 in most courts compared in Section 3.3. Whereas in India, since our pendency is greater than rate of institution, a lower court judge has many more cases pending with His Honour than 900. The highest value that the study team came across for this figure, was as high as 3800.

According to theories of cognitive science, human brain has not evolved to deal with more than about 150 personas at once. Therefore, no group or division in an organization has more than 150 persons reporting to one supervisor. Systems need to be developed for simplifying concurrent independent matters or issues more than 150. Taking this learning to our context, the high number of cases puts a severe stress on the cognitive capacity of the judge. Solutions need to be devised to bring down the diversity of cases for any judge. These solutions could be in the form of clubbing similar cases along the lines of Class Actions Suits in the United States, or by allotting cases of similar nature to a judge, or by creating special courts for handling certain types of cases, or by staggering cases by grouping them in spurts of few cases at a time (say a month). The objective should be that the number of matters running concurrently under one judge are limited, to preferably under 150.

Thus, large gap between two successive dates compounds the problem of pendency by slowing down the disposal of cases. Simple distribution of the caseload among existing judges may complicate the problem of pendency. Novel methods of distribution of cases are needed.

4.5 Caseload for Judges

Insufficient strength of judges has been repeatedly highlighted as the reason behind creation of backlog and arrears. The same has been examined in detail in this section. Tables 4.3 and 4.4 give the working strength of judges in Indian courts as on 31.12.2015. The tables also compute relevant ratios of cases instituted per judge and average population served for every

appointed judge. Regression analysis of this data is presented as Figures 4.7-4.10, after omitting lower courts in Bihar with a pendency rate of 470%, considered to be an outlier.

Table 4.3: Judges in High Courts in Comparison With Cases Instituted And Population (2015)

High Courts	Working Strength of Judges	No of cases Instituted ('000)	Average Cases per Judge	Population ('000,000)	Judge to Population Ratio
Allahabad	74	286	3,865	200	1:2,700,167
Andhra & Telangana	27	82	3,047	85	1:3,132,621
Bombay	59	112	1,893	114	1:1,939,319
Calcutta	39	76	1,944	92	1:2,350,172
Chhattisgarh	9	31	3,436	26	1:2,838,355
Delhi	39	46	1,179	17	1:430,460
Gujarat	28	80	2,856	60	1:2,158,560
Gauhati	17	25	1,478	36	1:2,097,942
Himachal Pradesh	7	26	3,703	7	1:980,657
Jammu & Kashmir	9	25	2,784	13	1:1,393,478
Jharkhand	14	31	2,208	33	1:2,356,295
Karnataka	31	145	4,687	61	1:1,970,816
Kerala	35	93	2,655	33	1:956,301
Madhya Pradesh	30	133	4,428	73	1:2,420,894
Madras	37	162	4,379	73	1:1,983,648
Manipur	3	2	634	3	1:856,797
Meghalaya	3	1	362	3	1:988,963
Odisha	22	71	3,212	42	1:1,907,919
Patna	28	90	3,215	104	1:3,717,838
Punjab & Haryana	50	129	2,572	54	1:1,083,005
Rajasthan	25	97	3,895	69	1:2,741,938
Sikkim	2	0	104	1	1:305,289
Tripura	4	3	736	4	1:918,479
Uttarakhand	6	17	2,879	10	1:1,681,049
Total	**598**	**1763**	**2,948**	**1211**	**1:2,024,364**

Table 4.4: Judges in Subordinate Courts in comparison with cases instituted and population of each state or Union Territory (2015)

States	Working Strength of Judges	No. of cases Instituted ('000)	Average Cases per Judge	Population ('000,000)	Judge to Population Ratio
Uttar Pradesh	1,825	3371	3,865	200	1:1,09,486
Andhra & Telangana	786	676	3,047	85	1:1,07,609
Maharashtra	1,917	1774	1,893	112	1:58,619
Goa	48	39	1,944	1	1:30,386
Diu and Daman & Silvasa	6	4	3,436	1	1:97,826
West Bengal & Andaman & Nicobar Islands	868	1162	1,179	92	1:1,05,595
Chhatisgarh	341	202	2,856	26	1:74,912
Delhi	490	731	1,478	17	1:34,261
Gujarat	1,170	1056	3,703	60	1:51,657
Assam	319	274	2,784	31	1:97,823
Nagaland	25	5	2,208	2	1:79,140
Mizoram	30	11	4,687	1	1:36,573
Arunachal Pradesh	15	8	2,655	1	1:92,248
Himachal Pradesh	134	297	4,428	7	1:51,228
Jammu & Kashmir	220	308	4,379	13	1:57,005
Jharkhand	466	128	634	33	1:70,790
Karnataka	820	1254	362	61	1:74,506
Kerala	442	1352	3,212	33	1:75,579
Lakshadweep	3	0	3,215	0	1:21,491
Madhya Pradesh	1,215	1084	2,572	73	1:59,775
Manipur	34	5	3,895	3	1:75,599
Meghalaya	30	19	104	3	1:98,896

Tamil Nadu	969	1195	736	72	1:74,455
Puducherry	14	21	2,879	1	1:89,139
Odisha	598	402	2,948	42	1:70,191
Bihar	1,067	442	2,949	104	1:97,562
Punjab	490	575	2,950	28	1:56,619
Haryana	474	573	2,951	25	1:53,484
Chandigarh	30	142	2,952	1	1:35,181
Rajasthan	985	1396	2,953	69	1:69,592
Sikkim	14	2	2,954	1	1:43,612
Tripura	68	205	2,955	4	1:54,028
Uttarakhand	206	222	2,956	10	1:48,962
Total	**16,119**	**18940**	**2,957**	**1211**	**1:75,102**

Figure 4.7 : Regression of Pendency Rate with Cases per Judge (High Courts)

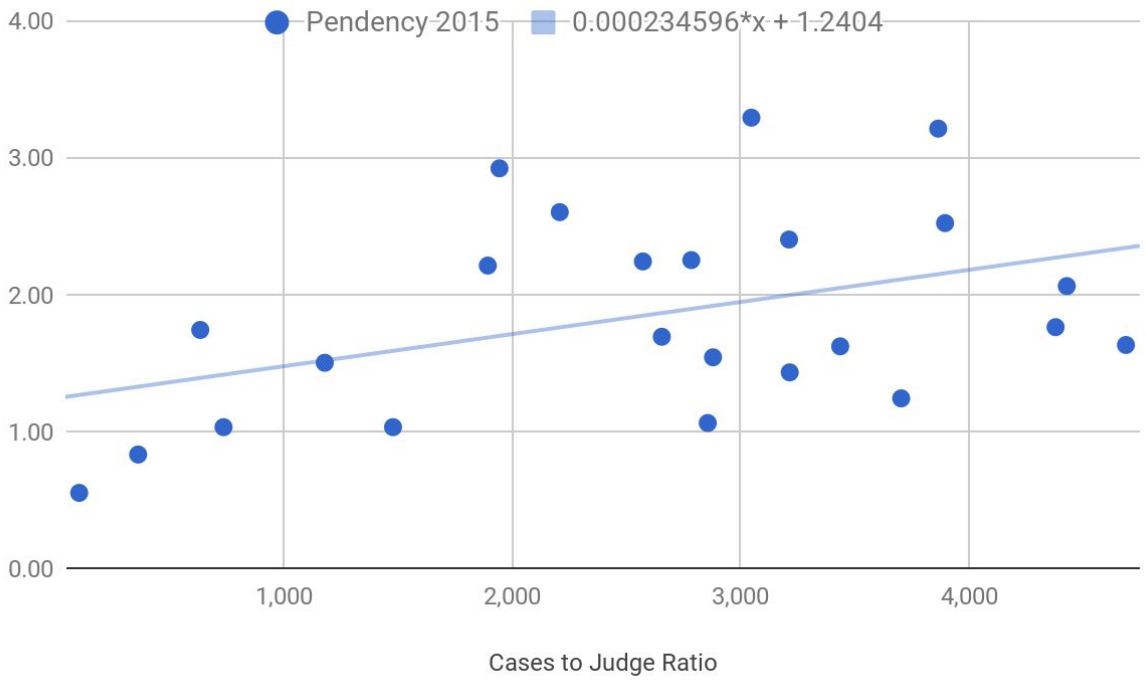


Figure 4.8 : Regression of Pendency Rate with Judge to Population Ratio (High Courts)

Figure 4.9 : Regression of Pendency Rate with Cases per Judge (Subordinate Courts)

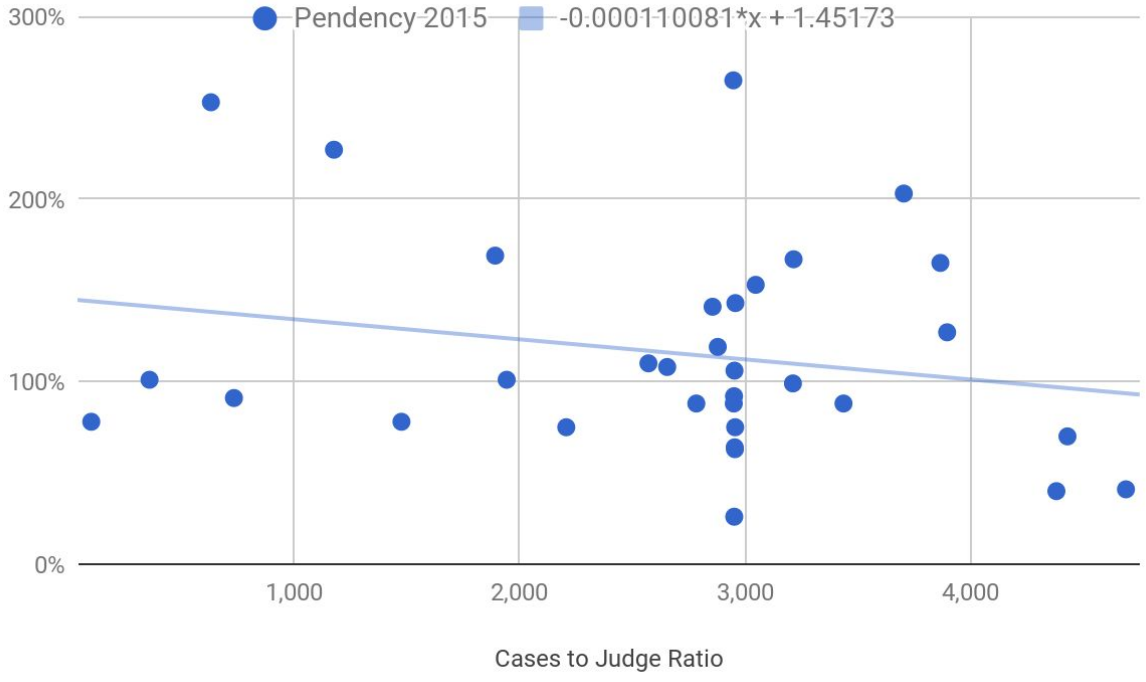
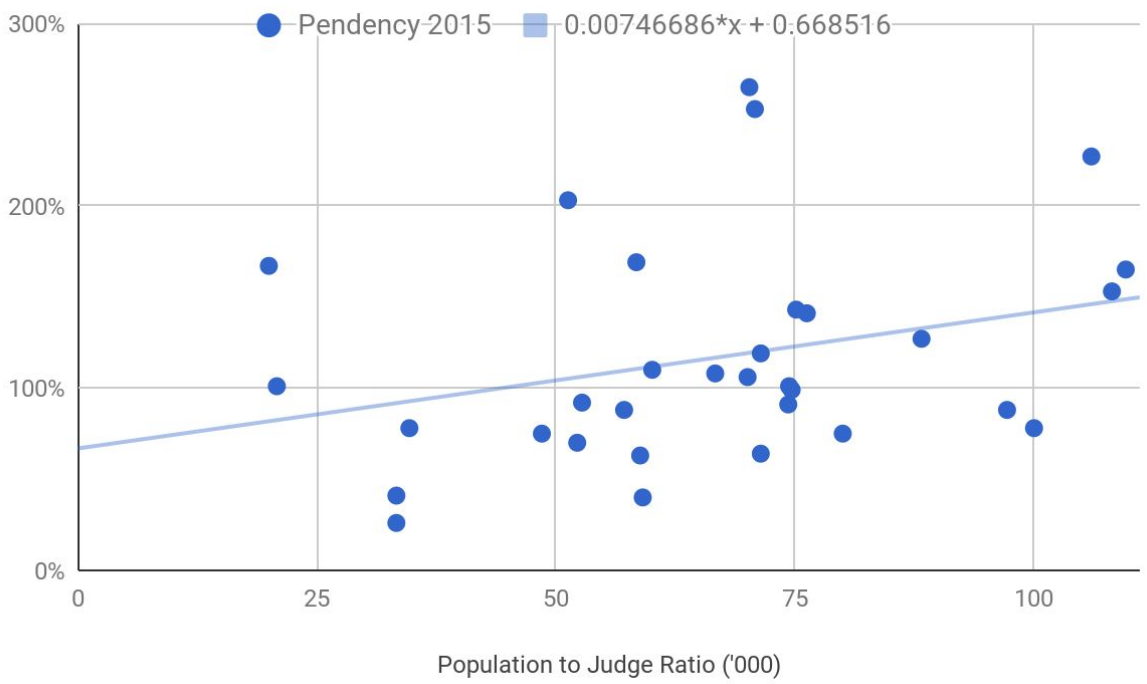


Figure 4.10 : Regression of Pendency Rate with Judge to Population Ratio (Subordinate Courts)



On expected lines, the regression in Figure 4.7 shows that a higher pendency rate is seen in jurisdictions with higher caseload per judge. For a caseload of every 1000 cases, the pendency is higher by 23%. There also appears to be a link between population to judge ratio in both high courts and subordinate courts. If the ratio is brought down from prevailing 75,000 to about 50,000 as seen in countries like United Kingdom, then pendency could reduce by about 19% in lower courts.

The study team attributed the lack of relationship between caseload and pendency in lower courts to the non-registration of cases due to various reasons. Heavy caseload and heavy pendency, puts off many litigants who do not register the cases. It could be that the capacity of registry is also a constraint and acts as a deterrent to the litigants. In our view, both caseload per judge and population to judge ratio are closely linked and represent the same underlying variable. The lever in the hands of justice system is the number of judges to be appointed.

Table 4.5: Comparison of Judges-to-Population Ratio

Country	Judges-to-Population Ratio
Argentina	1:8,929
Australia	1:22,727
Colombia	1:10,870
England and Wales	1:28,571
Ethiopia	1:32,258
France	1:10,989
Germany	1:4,348
Malaysia	1:41,667
Russian Federation	1:4,132
Spain	1:9,346
Thailand	1:14,706
India	1:72,441

Source: Malaysia Court Backlog and Delay Reduction Program - A Progress Report (2011)

The estimates for gap in Indian judiciary appointments vary from about 50,000 judges[26] to about 8,000 judges[27]. A comparison with few countries around the world is given in Table 4.5. Among the select countries, India has the lowest ratio of judge-to-population. To catch up with the closest country, Malaysia, India would need to appoint about 12,300 more judges. Such a step would require committing a significant amount of resources for years to come, and needs to be carefully considered. Law Commission has dealt with the matter of judge strength in detail in Report Number 245. We look at the issue of pendency in isolation.

With existing strength of about 16,000 judges, the lower courts are able to dispose of a number equal to institution in India (Figure 1.4) and in Maharashtra (Figure 3.7). Assuming that new positions will be created with increasing population and increasing rate of

[26] Law Commission of India, Report No 120
[27] Vidhi Center for Legal Policy, taken from
https://vidhilegalpolicy.in/op-eds/2016/7/22/how-many-judges-does-india-really-need

institution, the judiciary can continue to clear as many cases as are instituted every year. With country-wide pendency rate of 150%, it would take existing 16,000 judges about 1.5 years to clear all pending cases, without taking any new cases. Alternately, it would take 8,000 new judges 3 years to help achieve 0 pendency, assuming that existing judges continue to clear new cases as they get registered. Thus, one-time clearance of the backlog of cases created till now would require 24,000 judge-years worth of efforts. Since this clearance effort is expected to be one-time, it is desirable that solutions are implemented on a war footing, of temporary nature. This additional effort could be taken up in one of the following three ways.

1. Extending the tenure of existing judges by two-three years: It is estimated that about 500 judges superannuate every year, as they reach the age limit of 62. Till pendency is cleared, these judges may be given an extension for maximum three years each. Within next 3 years, about 3,000 judge-years worth of efforts could be made available in this way. Term extension is often compared with increasing the retirement age of judges. During our discussions with different stakeholders, the majority view was that increasing the retirement age may not give the desired results of pendency reduction.
2. Appointing senior lawyers for two-three years: A fixed term contract to lawyers would have operational issues, related to existing cases taken up by the lawyer and career options after completion of term. Nonetheless, it has been tried in other jurisdictions, for instance higher courts of Malaysia. This alternative provides great flexibility in numbers, with possibility of appointing about 10 fixed term judges in every district.
3. Bringing a system of peace-time judges for certain category of cases: As practiced in United Kingdom and Sweden, these judges without any formal background in law, can be helpful in resolving certain disputes at minimal cost and high effectiveness. This alternative would require supervision by existing judges and may not help all the categories of cases.

A comparison of case load with that from other jurisdictions - Malaysia, South Africa, Sweden, United Kingdom and United States for the same year 2015 is given in Tables 4.6 and 4.7. The numbers show that low pendency rates have been achieved elsewhere with caseload

and population ratios comparable to Indian courts. So, maintaining low pendency is possible once India is out of the vicious cycle of high duration of cases and high pendency.

Table 4.6: Judges Appointed in Comparison with Cases Instituted in and Population of Different Jurisdictions (Superior Courts)

Jurisdiction	Working Strength of Judges	Cases Instituted ('000)	Average Cases per Judge	Population ('000,000)	Judge to Population Ratio
India, high courts	598	1,763	1:2,948	1,211	1:2,024,364
Malaysia, high courts	86	97	1:1,128	30	1:348,837
South Africa, high courts	69	201	1:2,913	55	1:797,101
California (United States) state courts of appeal	101	15	1:149	38	1:376,238
United States (courts of appeal)	170	53	1:312	310	1:1,823,529
United Kingdom, high courts and courts of appeal	144			56.0	1:388,888

The takeaways from this comparison go beyond the comparison of ratio. With low population, Sweden enjoys one of the best judges to population ratio, which contributes to low pendency of 33%. To top that, several initiatives are taken for effective caseflow management. Appointment of lay judges and reinforcement judges on modest compensation helps in dealing with temporary imbalances in judiciary, such as long periods of absence or vacancy. Moreover, the system emphasizes on productivity improvement through e-calendars, online communication; on efficient allocation of workload; on target setting and performance management. While South Africa has managed to keep the pendency and backlogs in check through special backlog courts and an active ADRM in the criminal justice system.

Table 4.7: Judges Appointed in Comparison with Cases Instituted in and Population of Different Jurisdictions (Lower Courts)

Jurisdiction	Working Strength of Judges	Cases Instituted ('000)	Average Cases per Judge	Population ('000,000)	Judge to Population Ratio
India, subordinate courts	16,119	18,940	1:1,175	1,211	1:75,102
Malaysia, sessions courts	117[28]	87	1:744	30	1:256,410
Malaysia, magistrates	165	371	1:2,248	30	1:181,818
South Africa, lower courts	1,893[29]	1056	1:558	55	1:29,054
Sweden	1,676[30]	392	1:234	9.5	1:5,668
United Kingdom, subordinate courts	1,219	4,013	1:3,292	56.0	1:45,939
California (United States) subordinate courts	2,013	6,833	1:3,394	38	1:18,877
Connecticut (United States) subordinate courts	184	149	1:810	3.6	1:19,565
United States (district courts)	620	356	1:574	310	1:500,000
United States (bankruptcy courts)	316[31]	844	1:2,671	310	1:981,013

The role of Managing Judges in ensuring the timely disposal of cases and in meeting the need for easier access to justice in Malaysia cannot be undermined. As highlighted by a brief note in the Malaysian Judiciary Yearbook 2012, Managing Judges continuously monitor, supervise and ensure that time is not wasted, especially during crucial pre-trial stages.

[28] Most recent data (2011) taken from World Bank report documents.worldbank.org/curated/en/223991468282853484/pdf/632630Malaysia0CourtoBacklog.pdf

[29] In South African nomenclature, the word Magistrate is used for presiding officers of lower courts.

[30] From employment statistics available at http://www.statistikdatabasen.scb.se

[31] From Legal Information Institute at the Cornell Law School www.law.cornell.edu/uscode/text/28/152

During the trial phase, the Managing Judges ensure that cases are not postponed or adjourned unnecessarily.

4.6 Perspectives of Stakeholders

Semi-structured interviews conducted with various senior stakeholders during the study provided many insights into the subject to the study team. The questionnaire schedules were administered on various stakeholders whom the study team could not interview one-to-one, due to paucity of time. The primary data from all the stakeholders represent the years of efforts put in by them in going through the grind of the system.

While responses to detailed questions await the following chapter, Figure 4.11 shows the major systemic reasons identified by the respondents. The responses for a given cohort exceed 100% because respondents had the option to choose multiple reasons, if they deemed it appropriate. In line with our analysis in Section 4.5, the existing capacity is not believed to be a leading reason behind high pendency by any of the stakeholders. Instead, delaying tactics of advocates appear to be a major concern of judges and litigants alike. Advocates are also at times helpless, with no option but to seek an adjournment due to appearance in another court at the same time, which has been experienced by nearly all advocates in our sample. Advocates and prosecutors on their part believe that court management and judges are the reasons behind pendency of cases. In response to a direct question, the litigants shared the number of times their case got adjourned. Most cases got adjourned dozens of times, and the highest numbers quoted were in hundreds.

Figure 4.12 shows the perception regarding which stage of case contributes majorly to the delays. Issue of Summons, Written Statement or Set-off, Evidence, Cross-examination and Execution of Decree are the stages in which judges experience maximum delays, whereas Issue of Summons, Final hearing and Execution of Decree are the stages where lawyers believe that delays are originated. In institution of case, framing of issues and preparing judgment; lawyers believe that delays take place, yet not many judges feel so.

In Figure 4.13 for criminal cases, prosecution functions of chargesheet and evidence with cross-examination stand out as major contributors to delay, in the view of judges and

defence advocates. Due to small sample size, the views of public prosecutor could not be presented without compromising anonymity.

During interactions about type of cases that usually get delayed, there was no pattern in civil cases according to the respondents. All civil cases were equally likely to get delayed. However, a few respondents thought that matters with government as a party, matters involving immovable property and partition cases were slightly more prone to delays. In criminal cases, personal experiences were varied, but almost every respondent believed that certain type of cases were prone to be delayed. Most common responses were cases under Negotiable Instruments Act, cases where accused was absconding and cases with more than 5 accused.

Perception of stakeholders shared in this section provides important pointers for investigating whether the stages believed to contribute majorly to delays are indeed responsible. Population level data from NJDG need to be assessed to understand the issue better. Such an analysis could educate us on which part of the process to be focused.

Figure 4.11 : Top Level Reasons for Pendency as Identified by Respondents

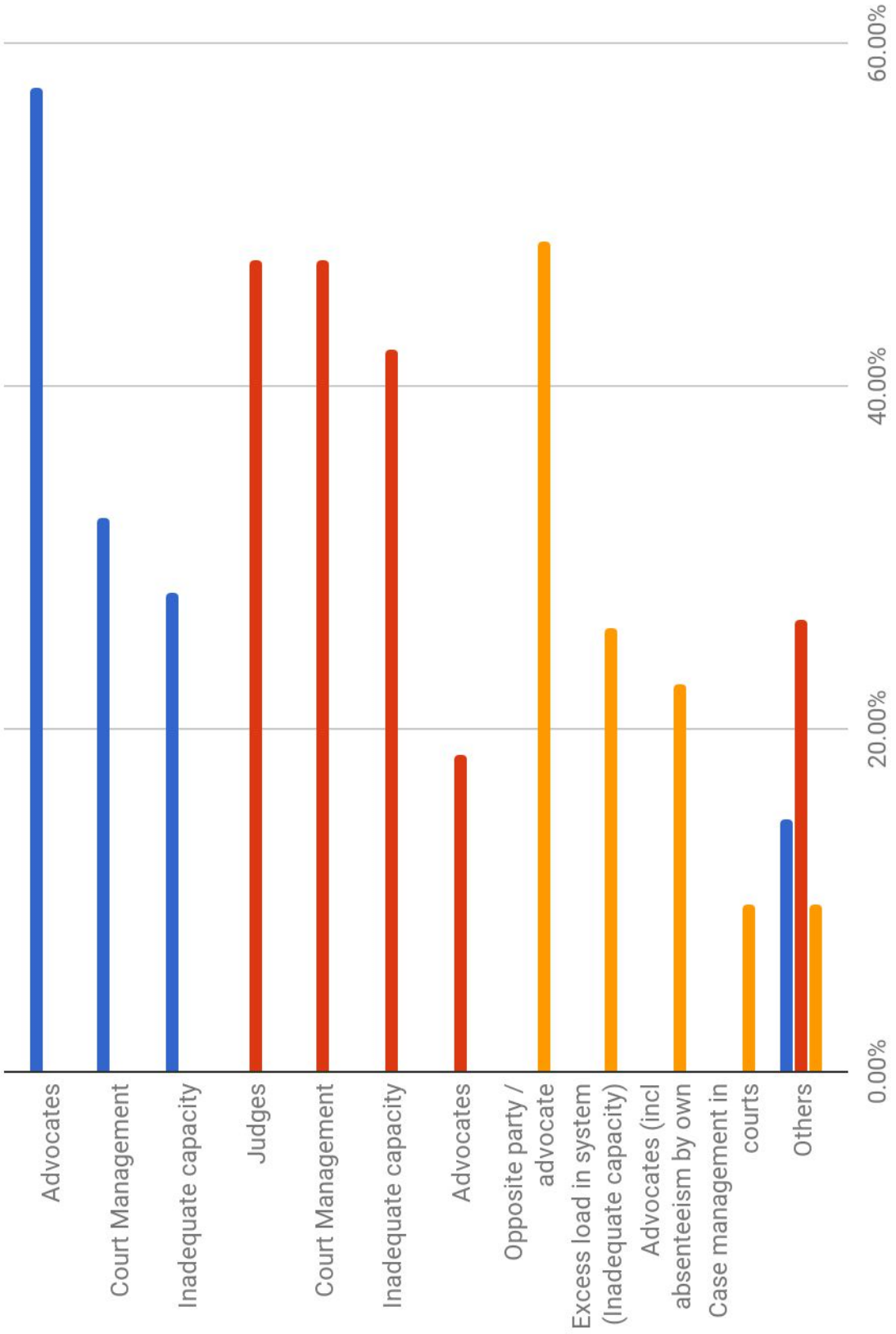


Figure 4.12 : Stages in Civil Caseflow that Contribute to Delays According to Respondents

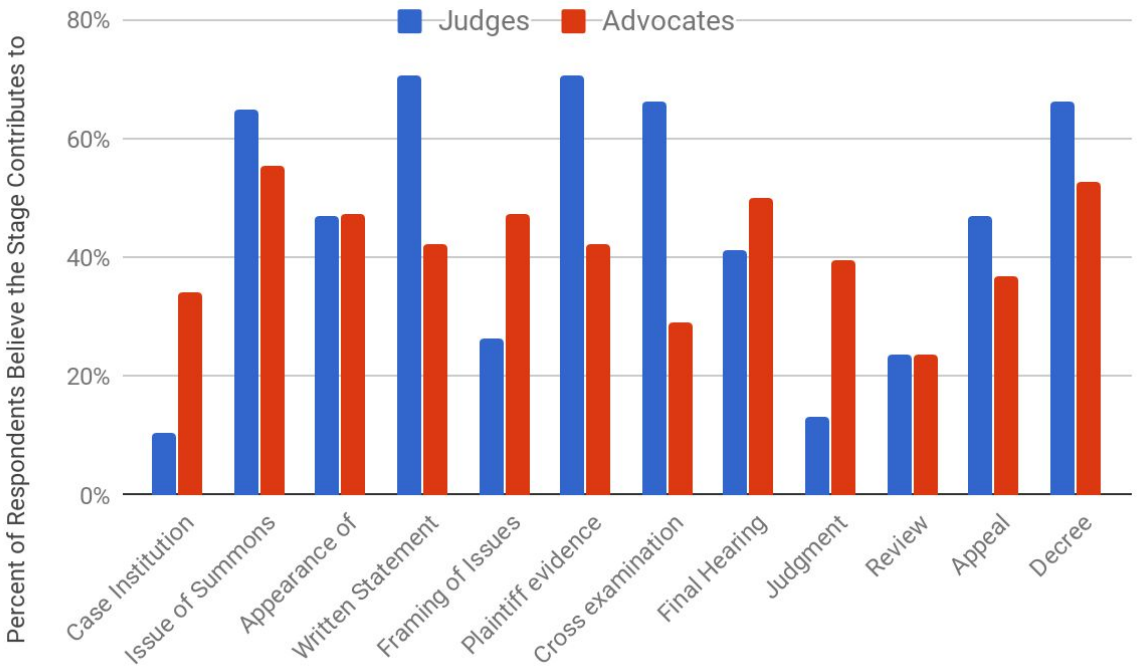
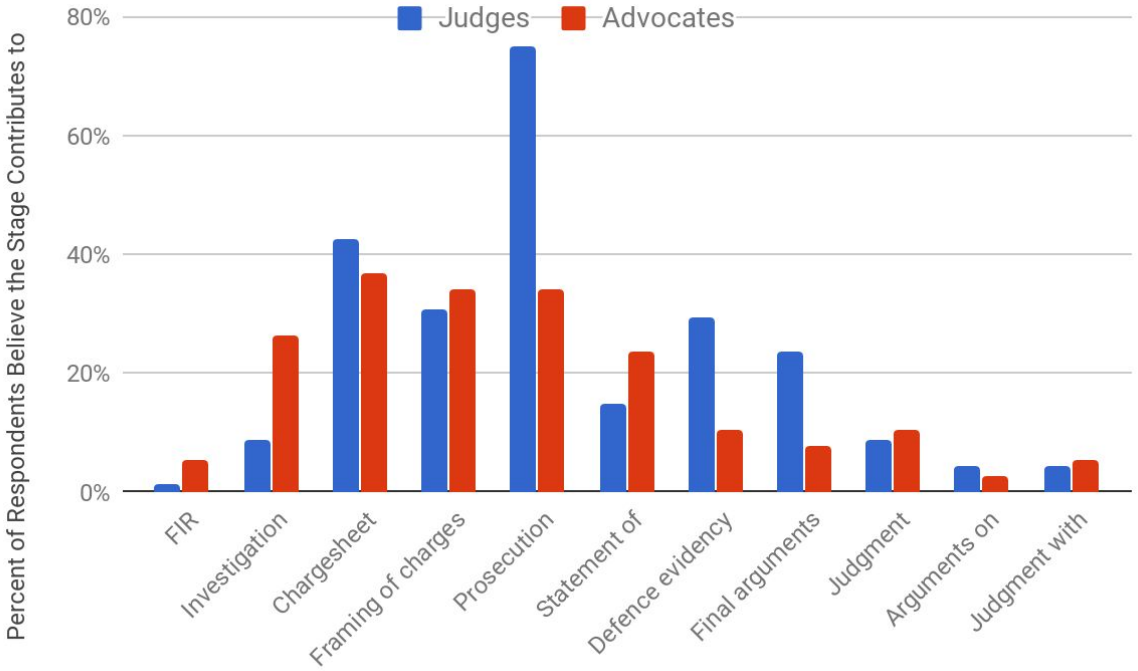


Figure 4.13 : Stages in Criminal Caseflow that Contribute to Delays According to Respondents



4.7 Comparison with Other States

A comparison of statistics from subordinate courts in Maharashtra with those from Haryana, Himachal Pradesh, Kerala, Madhya Pradesh and Punjab is made in this section. These are the states with lowest rate of arrears, ignoring small states and union territories. These states have brought down pendency considerably, and only exceptional cases are delayed by more than 5 years. A similar performance was not observed in higher courts. Therefore, the comparison was restricted to lower courts.

Table 4.8 shows the comparison of Maharashtra statistics with identified states. The top performing states do significantly better on pendency rate as well as rate of arrears. The states have achieved the performance in spite of a higher caseload per judge and comparable ratio of judge-to-population, once again disproving the myth that inadequate judicial strength is the main reason behind pendency. More than the caseload, it is the efficiency of system and supporting infrastructure that determine the pendency rate.

Table 4.8: Comparison of Pendency Rate, Arrears, Caseload and Judge-to-Population Ratio Among Select States of India (2015)

States	Pendency Rate	Rate of Arrears †	Average Cases per Judge	Judge to Population Ratio
Haryana	92%	1%	2,951	1:53,484
Himachal Pradesh	70%	10%	4,428	1:51,228
Kerala	99%	7%	3,212	1:75,579
Madhya Pradesh	110%	9%	2,572	1:59,775
Maharashtra	169%	23%	1,893	1:58,619
Punjab	88%	3%	2,950	1:56,619
All States of India	143%	25%	2,957	1:75,102

† Cases pending for over 5 years are assumed to be in arrears.

A study of factors contributing to this performance is warranted. According to an opinion article in The Mint[32], these are the fruits of a decade long hard work through systematic monitoring and management. A decade ago, the high court of Punjab and Haryana "set up a case management system—i.e. a mechanism to monitor every case from filing to disposal. It also began to categorize writ petitions based on their urgency. In addition, it set annual targets and action plans for judicial officers to dispose of old cases, and began a quarterly performance review to ensure that cases were not disposed of with undue haste. All these measures ushered in a degree of transparency and accountability in the system." A similar exercise, learning from experience and best practices elsewhere could be taken up in Maharashtra.

[32] Dated September 15, 2017. Accessible from http://www.livemint.com/Opinion/YbrwKToUjjADagh7biAihM/How-to-make-Indian-courts-more-efficient.html

Chapter 5 : Perspectives from Stakeholders

This Chapter builds on the causes for pendency that were identified in the previous Chapter and have been discussed in literature. The views expressed by various stakeholders have been extensively used without disclosing the identity of any respondent.

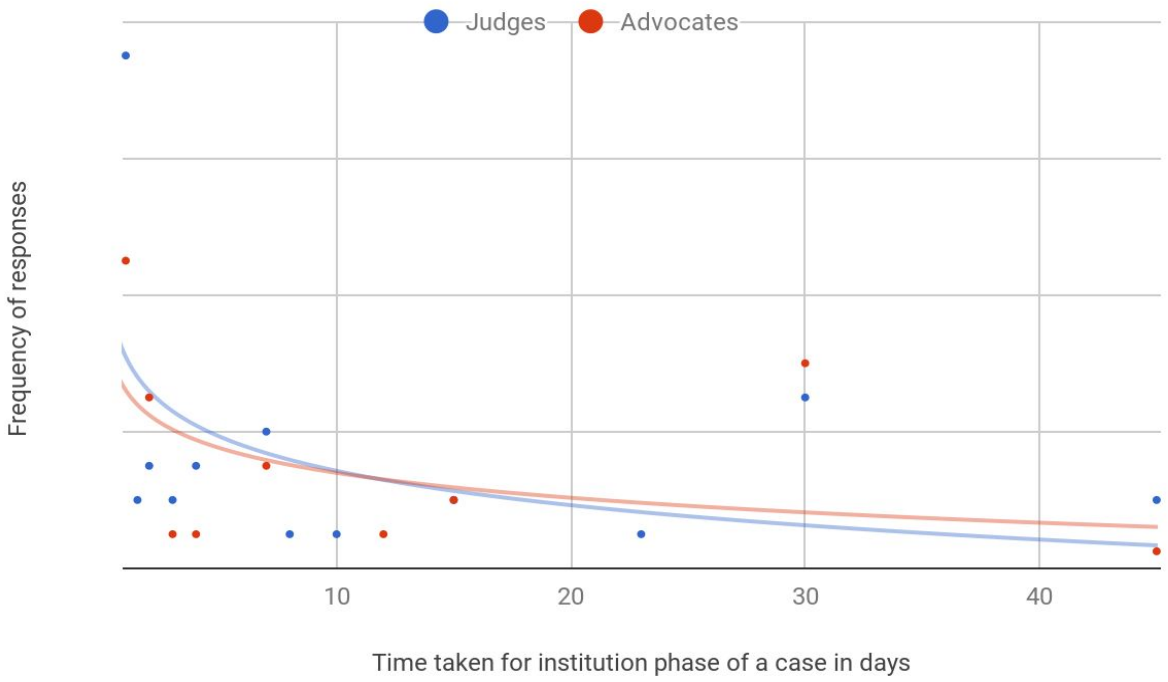
5.1 Timeline for a Typical Civil Case

The lawyers and the judges may have their disagreements inside and outside the courtrooms. One aspect on which both cohorts had excellent agreement was in their estimate of the time taken in different stages of a case. The respondents carefully weighed their years of experience in dealing with thousands of cases before providing the study team with timelines for a typical case in their subject area.

5.1.1 Case Institution

The time taken for institution phase of a case is shown against the frequency of responses in Figure 5.1, which was extracted from respondent data. The largest number of respondents thought that this phase usually takes one day. As the long tail shows, occasionally this stage takes about a week and a few responses were obtained at 30 days and 45 days as well. The blue line for judges is in broad agreement with the red line for advocates. It can be said that this phase follows a long tailed distribution in our representative sample. A similar chart with data from a large number of cases would help in predicting the typical times for different categories of cases in different courts.

Figure 5.1 : Perception of Judges and Advocates about Time Taken for Institution Phase



The variation in experience of different respondents is from 1 day to 45 days. This displays the diversity in Indian courtrooms. Some of which may be due to valid reasons beyond the control of individuals involved, and some due to controllable factors. Regular assessment of data would provide insights into possibility of reducing the variability and increasing predictability.

5.1.2 Issue of Summons and Appearance of Defendant

The time taken for issue of summons in a case is shown in Figure 5.2. The variety in this step is far more, although, once again judges and advocates are in broad agreement. The variety could be due to variation in physical distance from court and defendants being unavailable to receive summons for various reasons.

The time taken for appearance of defendant is shown in Figure 5.3. The variety in this step is less than Figure 5.2, barring exceptional cases in which it takes years before the defendants make their appearance.

Figure 5.2 : Perception of Judges and Advocates about Time Taken for Issue of Summons

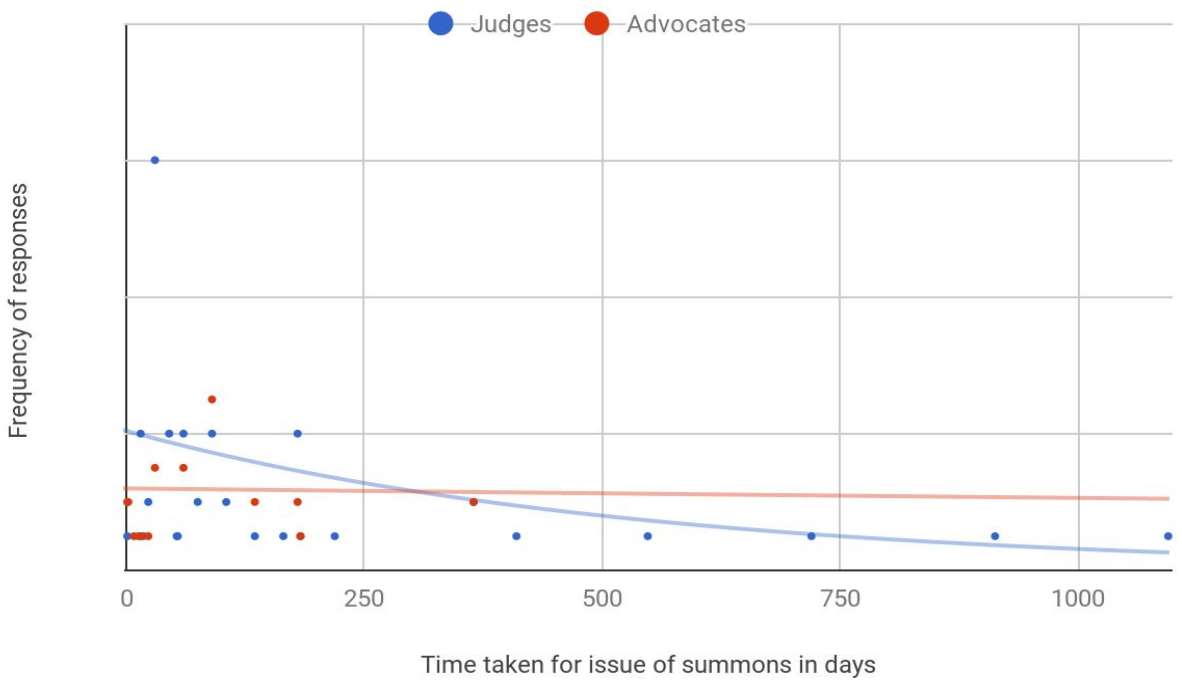
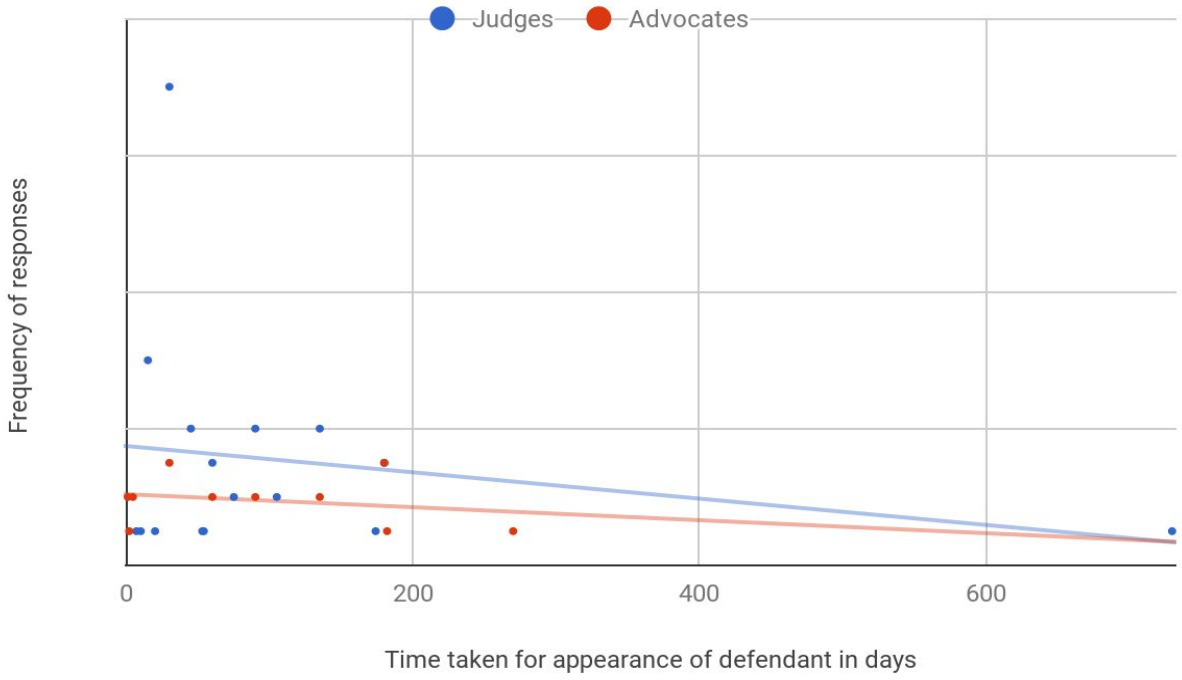


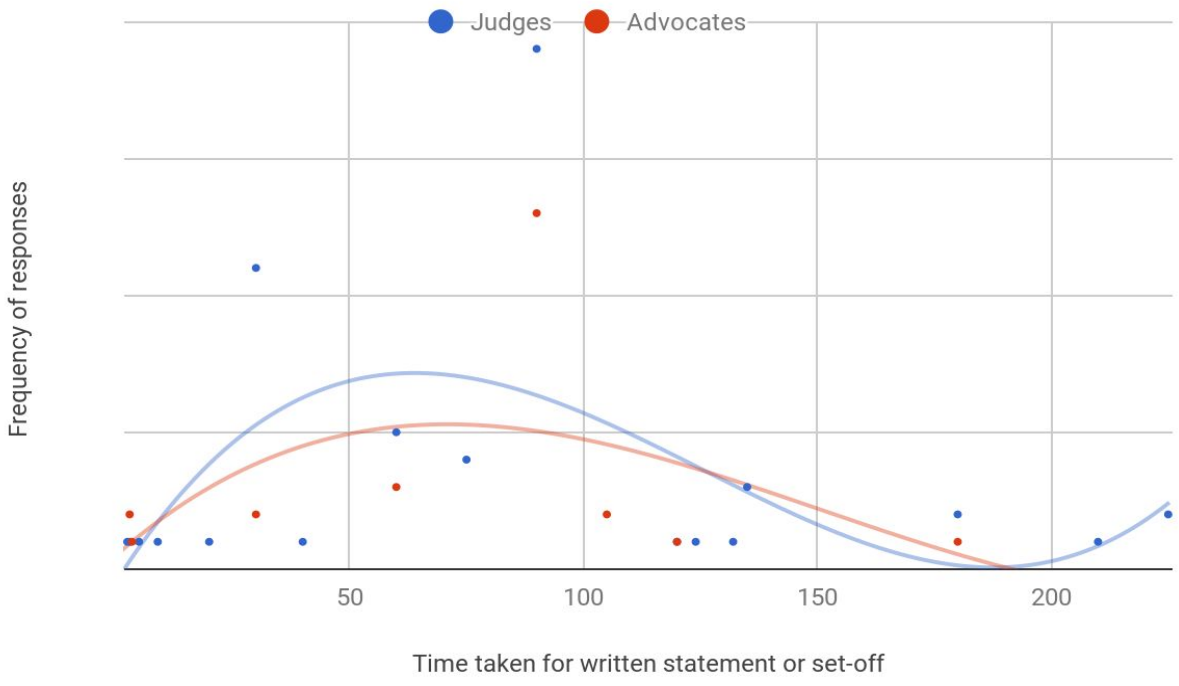
Figure 5.3 : Perception of Judges and Advocates about Time Taken for Appearance of Defendant



5.1.3 Written Statement or Set-off

The time taken for written statement or set-off step in a case is shown in Figure 5.4. Once again, the agreement between judges and advocates is remarkable. There is a peak between 30 and 90 days, indicating that in most cases it takes between 30 and 90 days for this step. The emergence of what may be called a second peak after 200 days may be studied with additional data from NJDG to understand whether it is a spurious peak or reality in some cases.

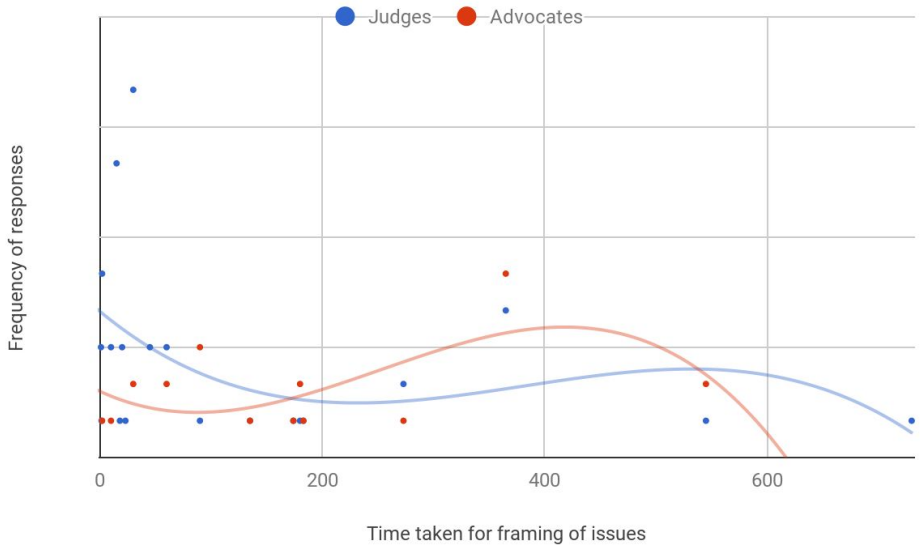
Figure 5.4 : Perception of Judges and Advocates about Time Taken for Written Statement or Set-off



5.1.4 Framing of Issues

Figure 5.5 shows that although the framing of issues takes place within a month or two in most cases, there are cases in which it takes longer than a year as well. Reasons for such variation must be understood, as they are within the control of parties present in the courtroom.

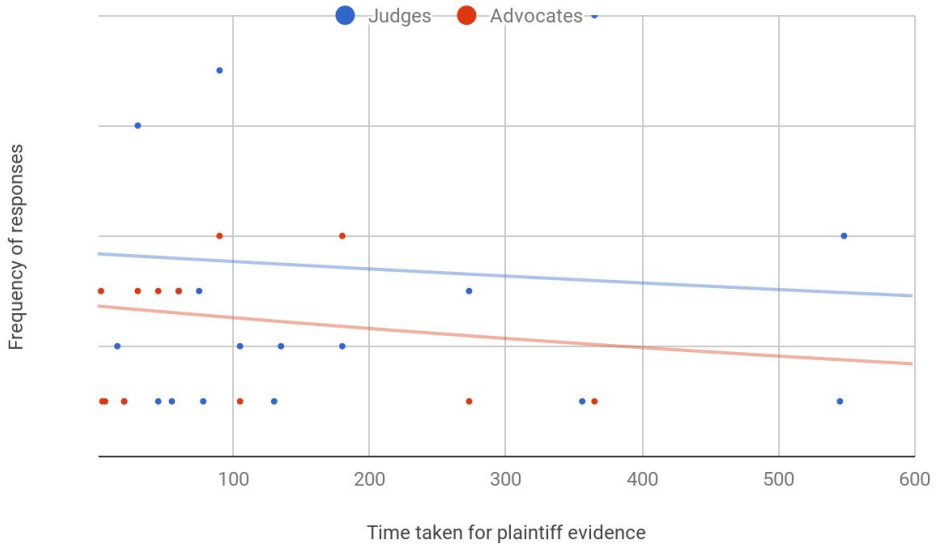
Figure 5.5 : Perception of Judges and Advocates about Time Taken for Framing of Issues



5.1.5 Plaintiff Evidence

As seen from Figure 5.6, plaintiffs take several months to submit evidence or they are otherwise thwarted from submitting. Two thirds of advocates and 5/6th of judges feel that delay at this stage contributes to the case going into arrear. Courts need to stipulate strict timelines and ensure adherence by involved parties.

Figure 5.6 : Perception of Judges and Advocates about Time Taken for Plaintiff Evidence

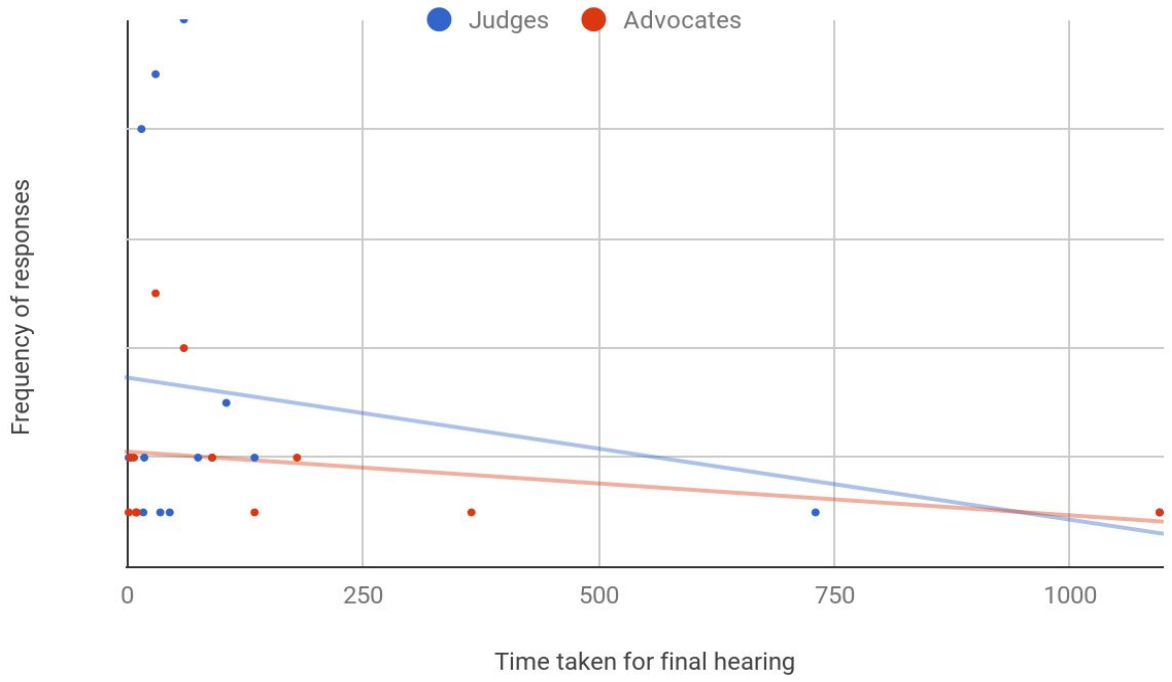


5.1.5 Defendant Evidence, Cross-examination and Final Hearing

The time taken for defendant evidence follows an even more lengthy timeline. The cross-examination schedule is expectedly lengthier and more varied - for both plaintiff and defendant. Charts for these are not presented for the sake of brevity.

The final hearing dates are relatively fewer, and it usually gets over within 2 months, as seen from Figure 5.7. This is a predictable part of the trial and does not contribute to delays according to about half of the respondents.

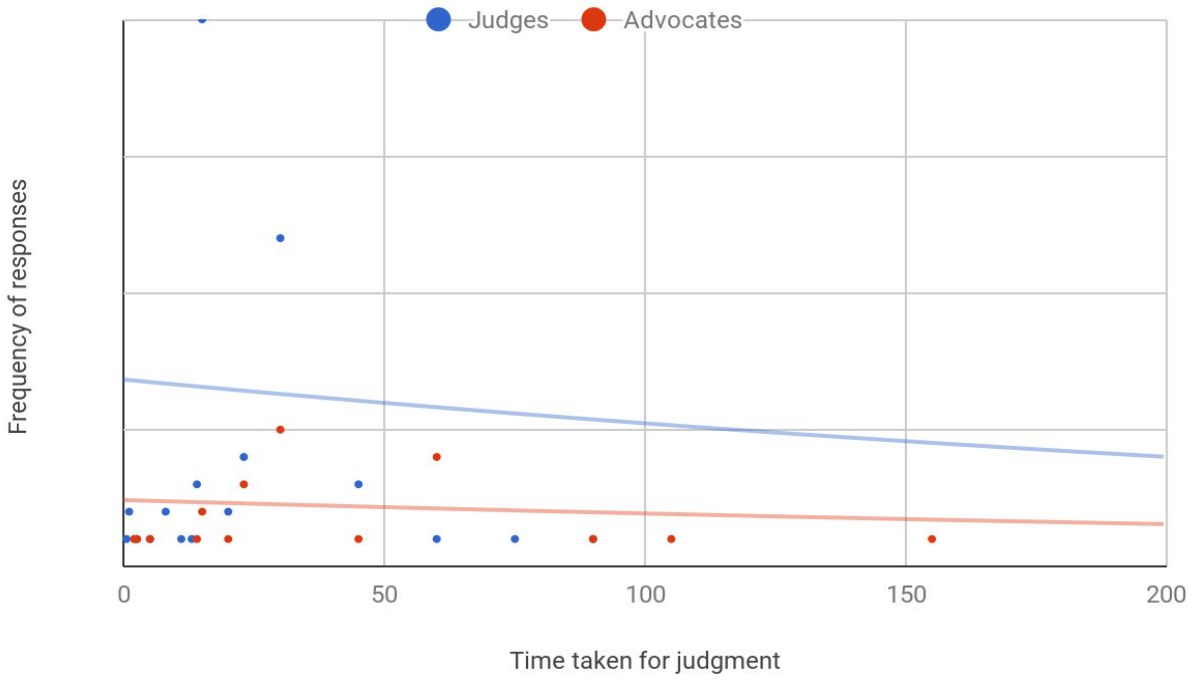
Figure 5.7 : Perception of Judges and Advocates about Time Taken for Final Hearing



5.1.6 Judgment

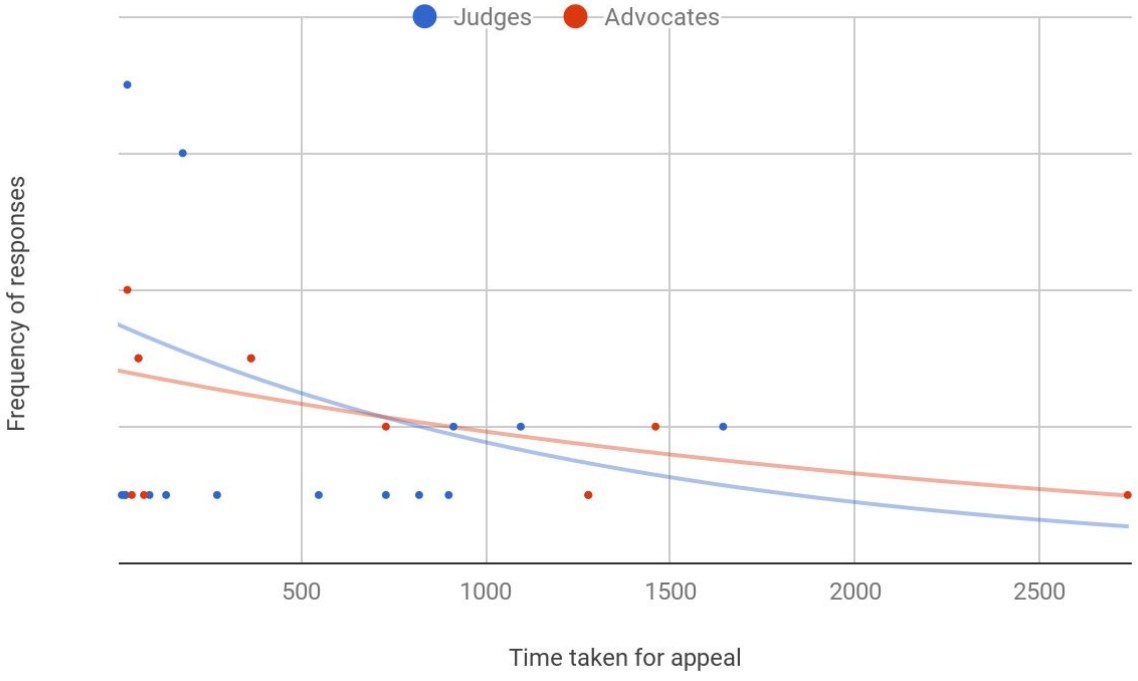
The time taken for delivering the judgment is depicted in Figure 5.8. The times for review of decree and execution of decree also show similar trend. The number of cases in which judgment is delivered before 30 days is sizable. A long tailed distribution is evident in responses of both judges and advocates.

Figure 5.8 : Perception of Judges and Advocates about Time Taken for Judgment



Appeals (Figure 5.9) show a more erratic distribution with a fat tail that extends beyond several years (4-5 years as per one judge and 7-8 years according to a learned counsel).

Figure 5.9 : Perception of Judges and Advocates about Time Taken for Appeal



5.1.7 Key Takeaways

With limited quantum of data, this section has shown us that time taken for every stage of a civil side case follows a pattern. The pattern can be explained with the help of a statistical term 'mode' and nature of distribution. Mode would be the amount of time experienced by highest number of cases in a given dataset. For instance, for Case Institution, mode is 1 day, whereas for Written Statement or Set-off, it is 90 days. The distribution (represented by continuous lines in preceding charts) usually peaks at the mode and tapers off on both sides.

With more comprehensive and concise data, such as that collected by the eCourts project; these charts would give a more smooth fit and provide a better picture related to typical times in each stage. The charts will also give an idea about median timelines (50 percentile on the chart), unusual case timelines (90 percentile) and exceptional case timelines (99 percentile). Such calculations were not done for the current sample, as it may be misleading due to the limitations of available data.

Thus, this section provides a scientific method for representing the timeline of a typical case, an unusual case and an exceptional case. These timelines measure the performance of pendency reduction initiative. Targets for the judicial system would be these timelines for different categories of cases. These targets should be annually revised downwards as the organization learns how to manage time effectively, as is done in South African courts.

5.2 Timeline for a Typical Criminal Case

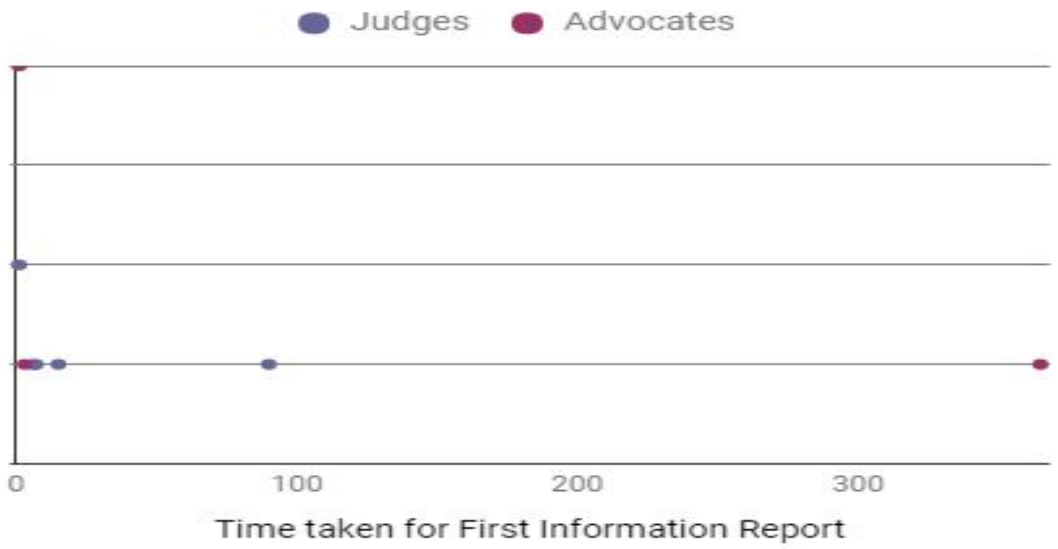
In this section, an analysis similar to Section 5.1 was carried out with data from practitioners of criminal law. Once again, the respondents carefully weighed their years of experience in dealing with thousands of cases before providing the study team with timelines for a typical case in their experience.

5.2.1 First Information Report

The time taken for First Information Report is depicted in Figure 5.10. Although the first information report takes place immediately within a day or at most two days. The graph

below shows the time taken for the First Information Report, according to the perception of Judges and Advocates.

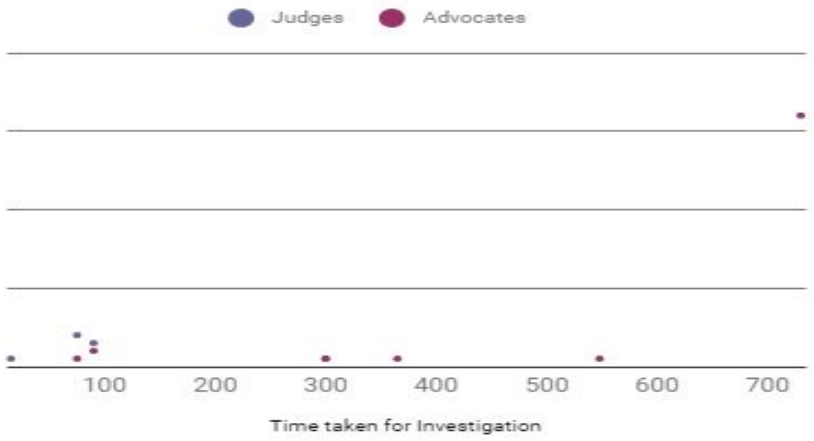
Figure 5.10: Perception of Judges and Advocates about Time Taken for First Information Report



5.2.2 Investigation

The time taken for Investigation is depicted in Figure 5.11. According to the perception of Judges and Advocates the time taken for t he Investigation is between 15 days to more than one year. There is a peak at around 90 days, indicating that in most cases it takes about 90 days for this step.

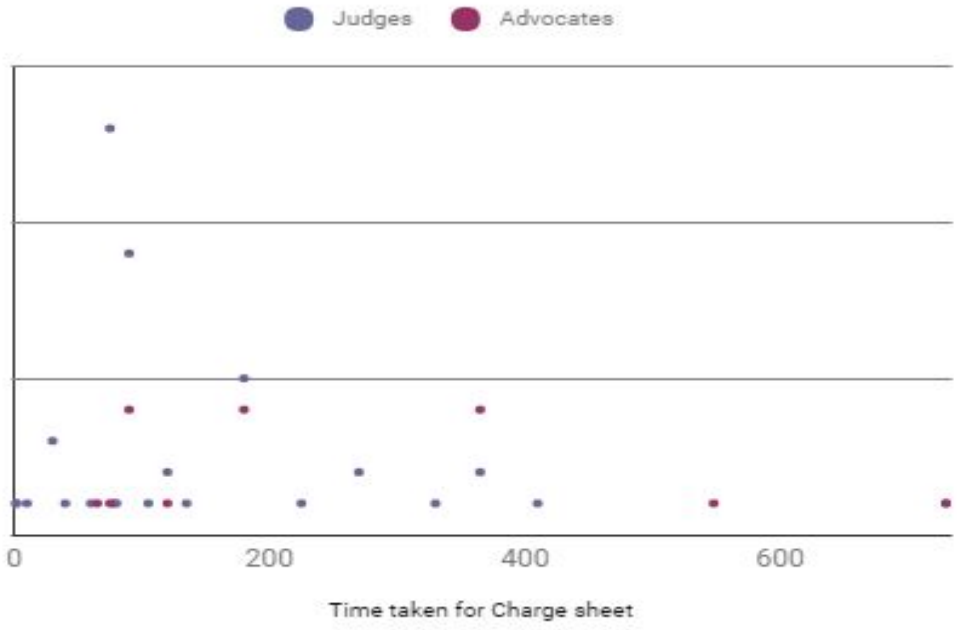
Figure 5.11: Perception of Judges and Advocates about Time Taken for Investigation



5.2.3 Charge Sheet

The time taken for Charge sheet is depicted in Figure 5.12. According to the perception of Judges and Advocates the time taken for the Charge Sheet filing varies a lot, from one month to up to 2 years. Once again, the agreement between judges and advocates is remarkable. The frequency peaks between 90 and 180 days before tapering off, indicating that in most cases it takes between 90 and 180 days for this step.

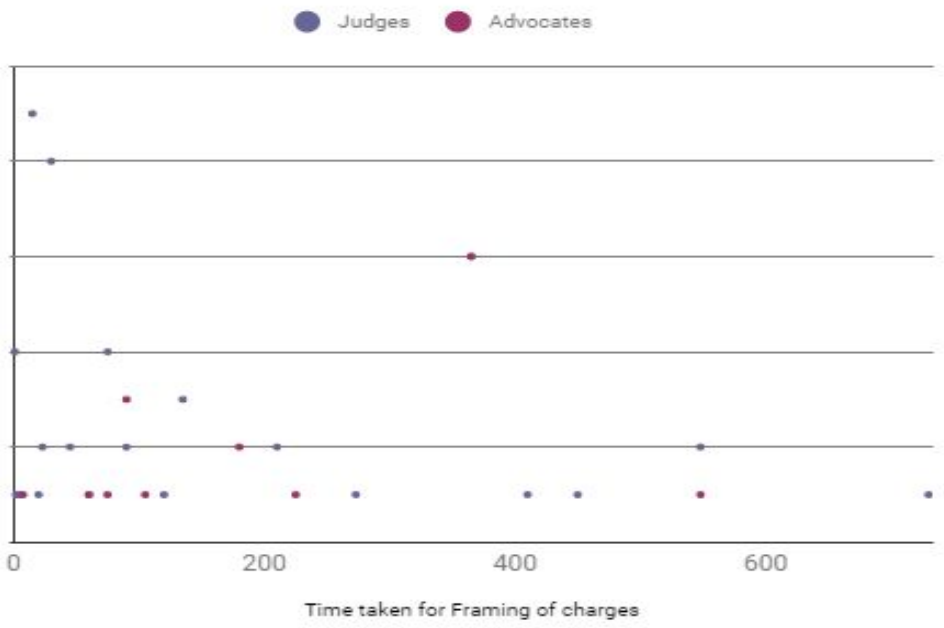
Figure 5.12: Perception of Judges and Advocates about Time Taken for Charge sheet



5.2.4 Framing of charges

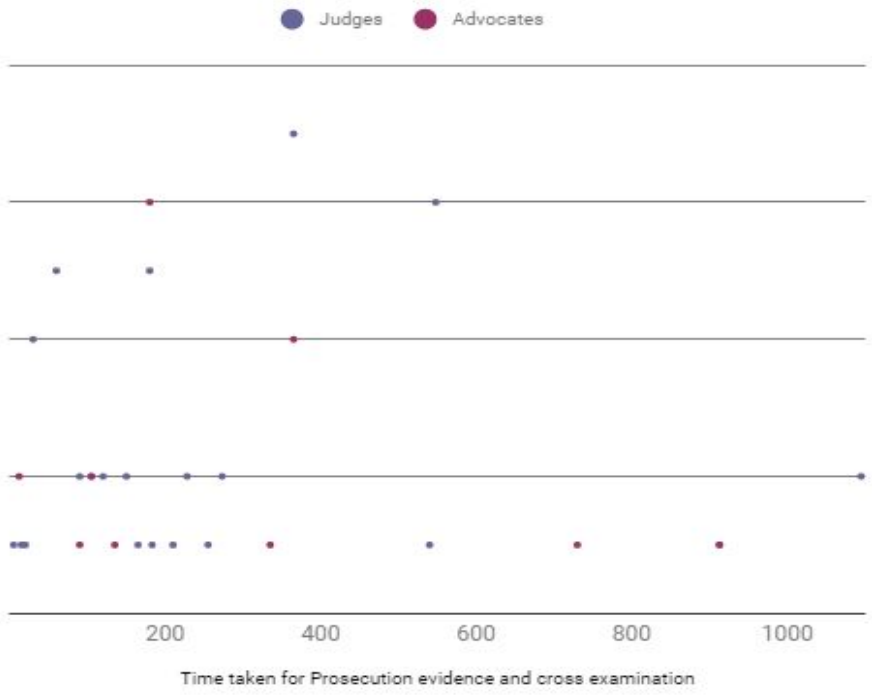
The time taken for Framing of charges is depicted in Figure 5.13. Once again, the agreement between judges and advocates is remarkable. In the experience of most judges and advocates, it takes between 15 and 30 days for this step. This distribution follows a long tail, indicating a classic Poisson distribution with a low mean. This is a very popular functional form for modelling behavior of queues. Presence of such distribution makes the process (step of framing charges) amenable to case flow management through stochastic techniques.

Figure 5.13: Perception of Judges and Advocates about Time Taken for Framing of Charges



5.2.5 Prosecution evidence and cross-examination

Figure 5.14: Perception of Judges and Advocates about Time Taken for Prosecution evidence and Cross examination

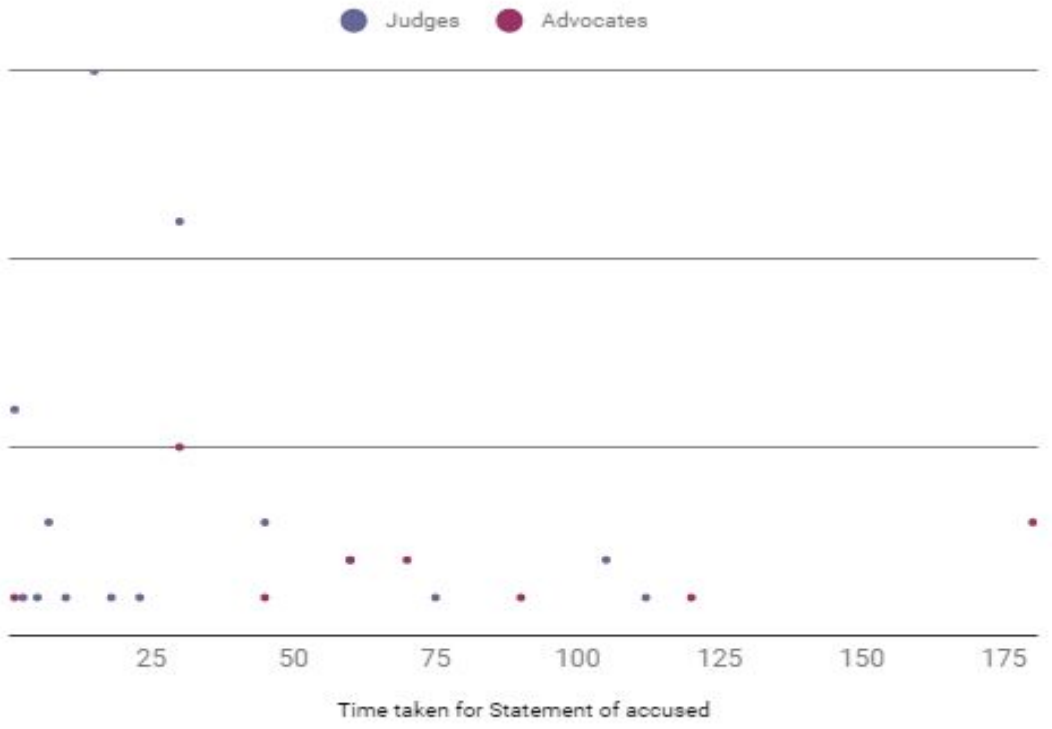


The time taken for Prosecution evidence and Cross examination is depicted in Figure 5.14. According to the perception of Judges and Advocates the time taken for the Prosecution evidence and Cross examination is very scattered. There is a peak at about a year, but the distribution is very flat and fat-tailed, indicating greater variability among cases.

5.2.6 Statement of Accused

The time taken for Statement of Accused is depicted in Figure 5.15. According to the perception of Judges and Advocates the time taken for the Statement of Accused is short, less than a month in most cases. The time rarely exceeds 180 days.

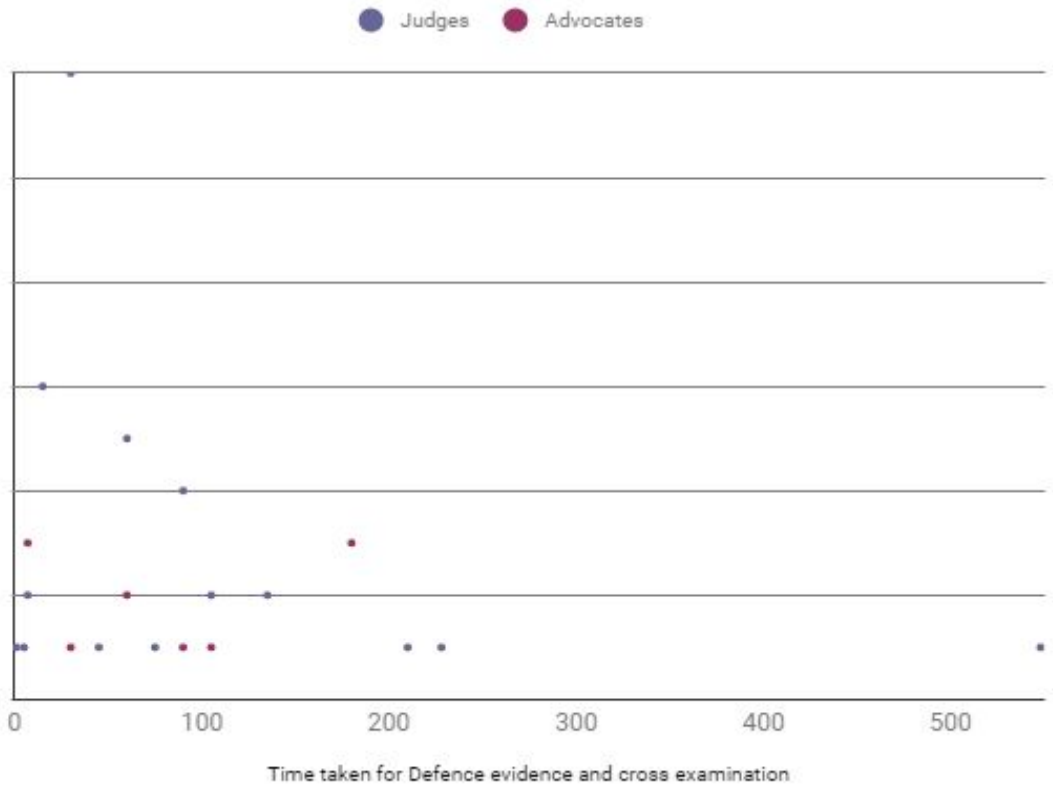
Figure 5.15: Perception of Judges and Advocates about Time Taken for Statement of Accused



5.2.7 Defence evidence and cross-examination

The time taken for Defence evidence and cross examination is also usually less than 6 months, as depicted in Figure 5.16. According to the perception of Judges and Advocates the time taken for the Defence evidence and Cross examination peaks at about 30 days, indicating that in most cases it takes about a month for this step. Once again, the curve shows Poisson distribution.

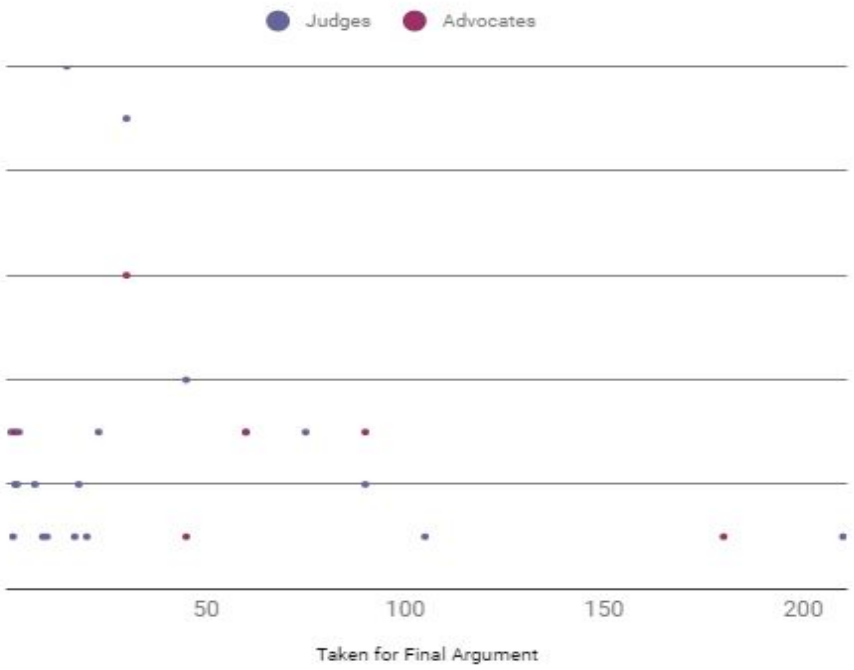
Figure 5.16: Perception of Judges and Advocates about Time Taken for Defence evidence and Cross examination



5.2.8 Final arguments

The time taken for Defence Final Arguments is depicted in Figure 5.17. The perception of Judges and Advocates are similar for the time taken for the Final Arguments. A statistical mode is observed at 30 days for both advocates and judges. Long tailed Poisson distribution is apparent.

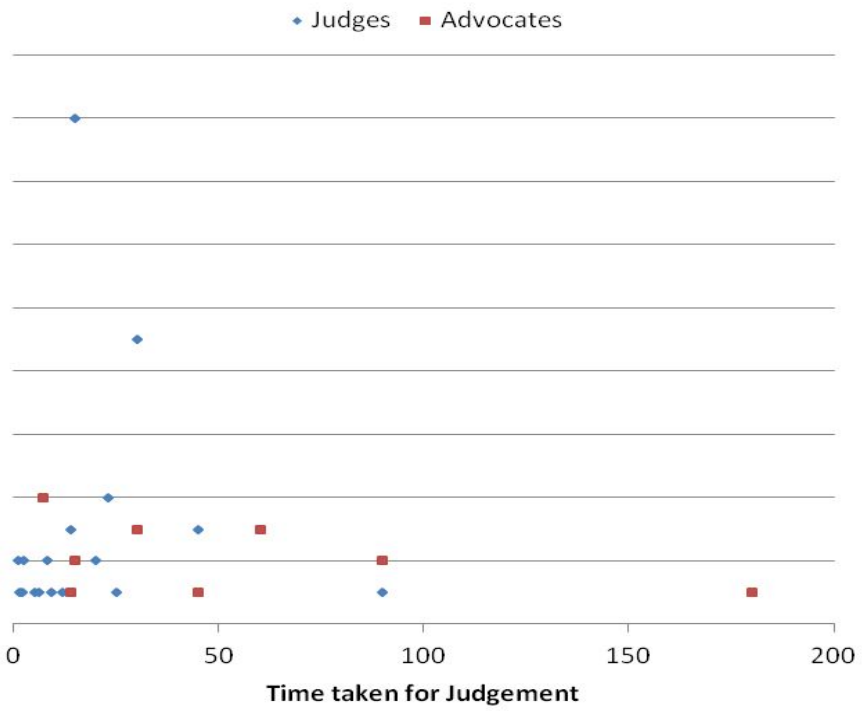
Figure 5.17: Perception of Judges and Advocates about Time Taken for Final Argument



5.2.9 Judgment

The time taken for Judgment is depicted in Figure 5.18. While according to most stakeholders, the judgment is delivered within a month; according to a few, it takes longer.

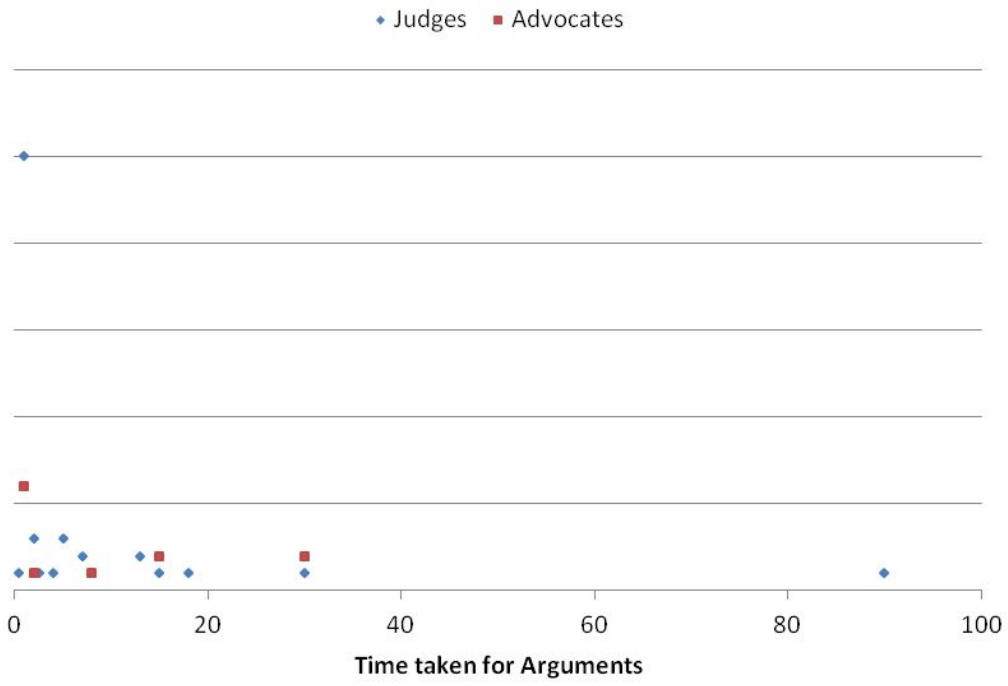
Figure 5.18: Perception of Judges and Advocates about Time Taken for Judgment



5.2.10 Arguments on sentence and Judgment with punishment

The time taken for arguments on sentence and final judgment with punishment is depicted in Figure 5.19. According to the perception of Judges and Advocates the time taken is small, usually a week or two.

Figure 5.19: Perception of Judges and Advocates about Time Taken for Arguments on sentence and Judgment with punishment



5.2.11 Key Takeaways

Similar to Section 5.1; we observe that the time taken for every stage of a criminal side case also follows a pattern. Many stages of the trial appear to follow a classical Poisson distribution. This conclusion based on stakeholder perception requires substantiation through more comprehensive and concise data, such as that collected by the eCourts project.

Thus, this section also provides a scientific method for representing the timeline of a typical case, an unusual case and an exceptional case. These timelines can be useful for measurement of the performance of pendency reduction initiative.

5.3 Time Spent on Oral Arguments

As seen from Figures 4.12 and 4.13, there is a perception among stakeholders that often the delays originate out of excessive time taken in arguments and cross-examination stages of a trial. A close ended question asked to the lawyers and judges elicited interesting responses, as given in Figure 5.20. Judges are strongly in favour of written arguments, however, advocates, particularly public prosecutors, are not very enthusiastic about it.

On a related question of setting time limits, of say 30 minutes or other appropriate amount, the responses showed a similar pattern. Figure 5.21 shows that although judges favour such time limits, the lawyers, including public prosecutors have a divided house. Probing deeper, it was also discovered that such a time limit would have to be specific to nature of case, and may be counterproductive in large number of cases.

Figure 5.20 : Written Submission over Oral Arguments to Save Time

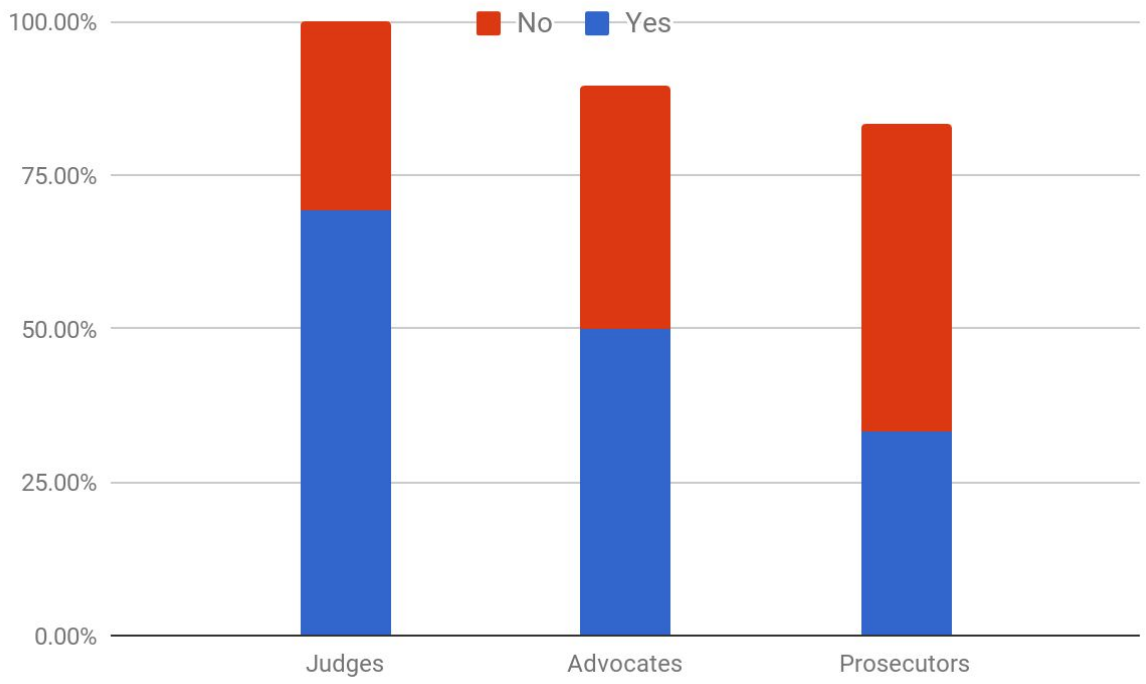
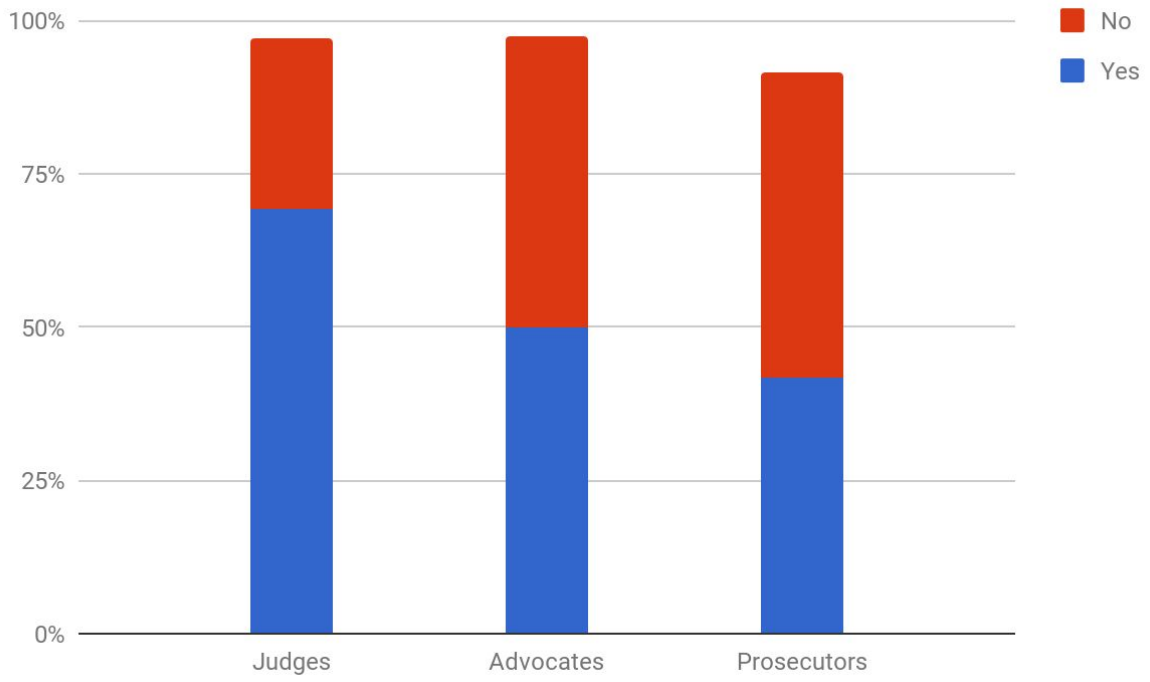


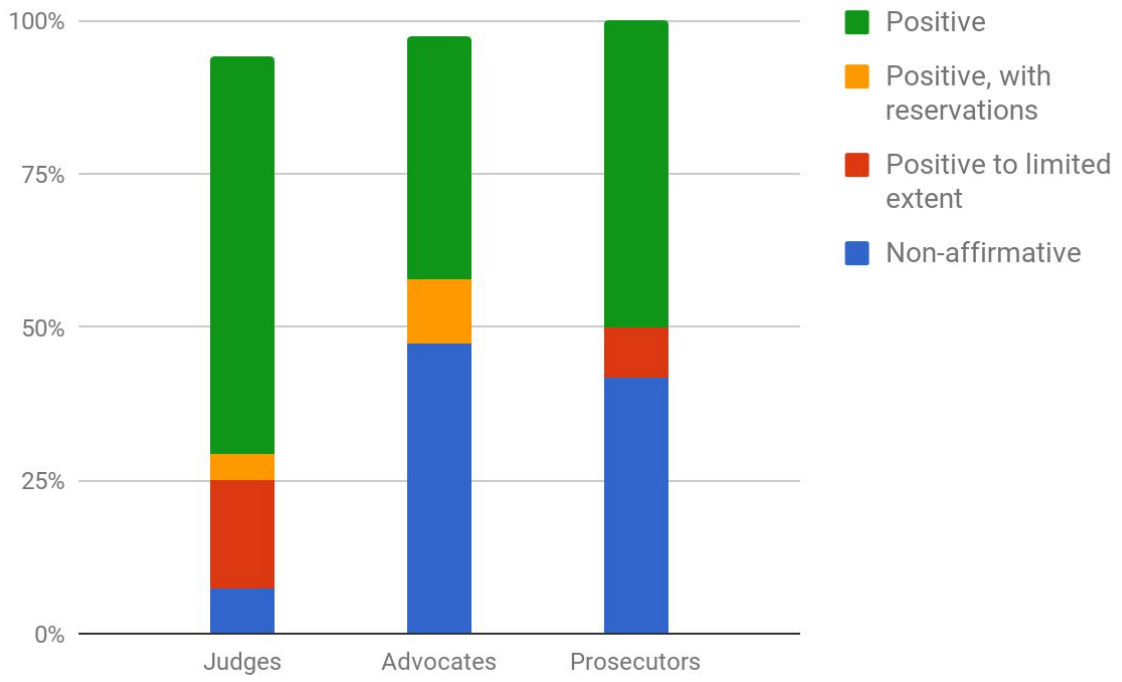
Figure 5.21 : Preference for Setting Time Limit for Arguments by Parties



5.4 Computerization of Courtrooms

The ambitious eCourts project taken up in mission mode in year 2007 has brought about a great wave of digitization. Apart from disseminating case level information in realtime mentioned earlier, the project has helped in use of technology in several processes. Single window Judicial Service Centre are helping the filing of petitions and applications. Increasing use of video conferencing facilities is saving precious time and resources in trials. To understand the view of stakeholders on this aspect, an open ended question was asked to all respondents. The responses regarding impact on pendency have been categorized and represented in Figure 5.22. Two-thirds of judges and nearly half of advocates and prosecutors answered in the affirmative. A few (7%) of the judges and several advocates and prosecutors shared their reservations about whether it would have any impact on the pendency.

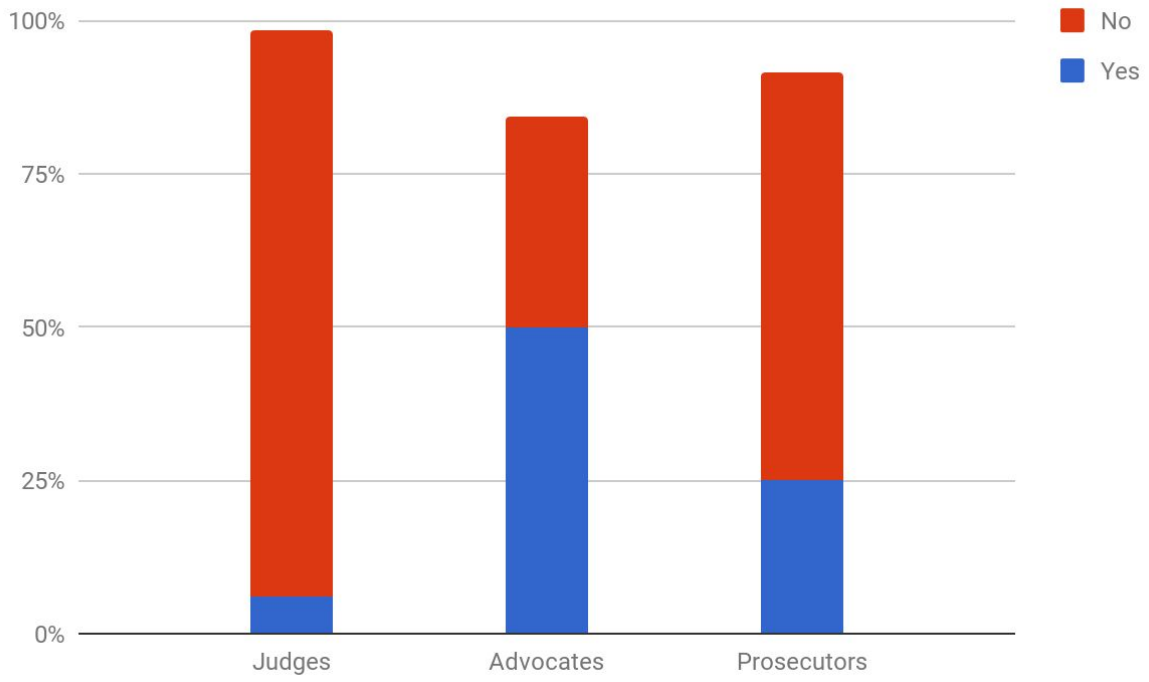
Figure 5.22 : Likely Impact of eCourts on Pendency



5.5 Ambiguity in Judgments

During preliminary discussions and pilot study, it emerged that ambiguity in judgments gives rise to appeals and increases the caseload on the judicial systems. The responses to a pointed question related to this are represented in Figure 5.23. The opinions of lawyers and judicial officers are starkly different. While nearly all judicial officers believe that ambiguity in judgments, if any, is not a cause of pendency; majority of advocates think otherwise.

Figure 5.23 : Ambiguity in Judgments



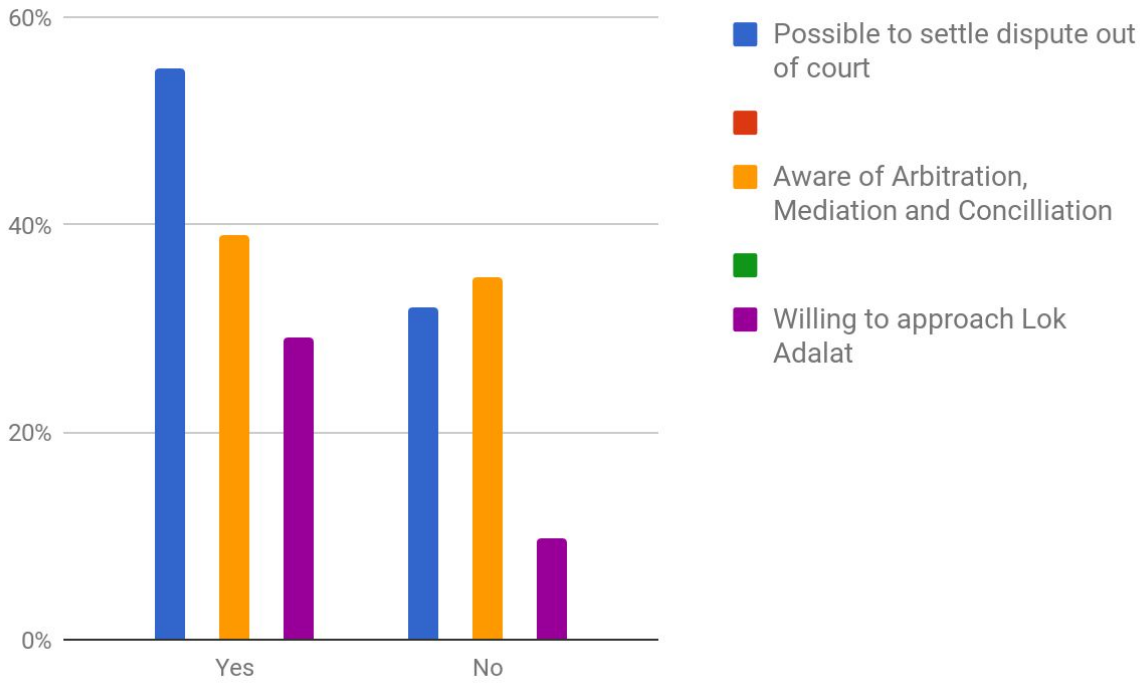
5.6 Alternative Dispute Resolution

Various initiatives have been taken to improve the access to justice, avoiding the crowded court rooms. In 1982, Lok Adalat was created in Gujarat as a forum for Alternative Dispute Resolution (ADR). The Legal Services Authorities Act of 1987 formalized the authority of Lok Adalats as economic and efficient mode of ADR. The Arbitration and Conciliation Act of 1996 has changed the way Indian courts view ADR. The growing importance of ADR is highlighted by the Law Commission of India through a dedicated report number 222.

The study team thought it appropriate opportunity to take the opinions of stakeholders. Litigants, who are the major beneficiaries of ADR, have limited awareness of ADR. Although a majority of litigants believe that there is a chance of settling the dispute out of court, fewer are willing to try Lok Adalats. The study team attributes this to lack of awareness of the mechanism. Figure 5.24 depicts the picture graphically. Of the 55% litigants who believed it was possible to settle the dispute out of court, only 29% are ready to approach Lok Adalats owing to lack of awareness with only 40% aware of Arbitration, Mediation and Conciliation.

The point is supported by the lack of responses to the third question, whereby almost 60% of respondents did not answer the question.

Figure 5.24 : Attitude of Litigants towards ADR

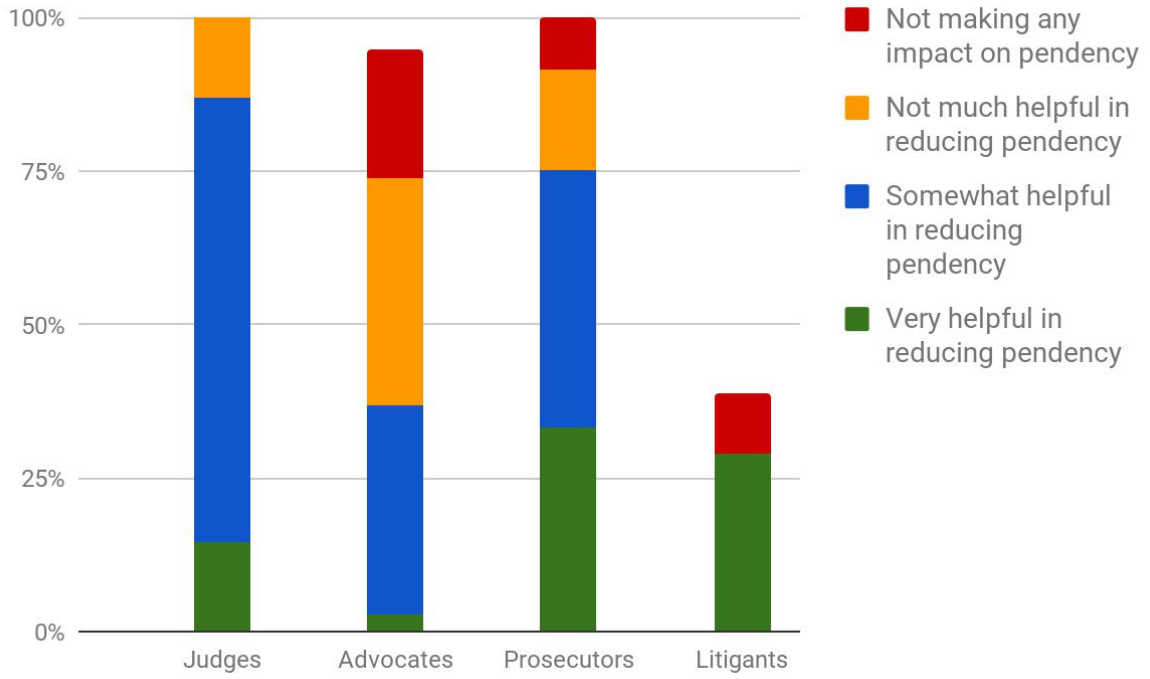


Views of advocates, judges, public prosecutors and litigants has been presented in Figure 5.25. Judges and public prosecutors are positively disposed towards the potential of ADR in reducing pendency, whereas lawyers are somewhat skeptical. Litigants, as noted earlier, are less aware than the other stakeholders. A large number of judges, advocates and prosecutors emphasized the need for creating awareness about Lok Adalats. A large number of judges saw benefit from Lok Adalats and Evening Courts, particularly for petty matters.

Many judges and a few advocates admitted to advising parties to go for Arbitration, Mediation and Conciliation. An overwhelming number of judges and a majority of responding lawyers also believe that pre-institution guidelines (similar to those for cases involving government outlined in Section 80 of CPC 1908) would encourage parties to settle out of court. However, there was a contrarian view expressed by a few that it would be contrary to the fabric of our justice system, and parties approach the court for redressal their grievance as a last resort.

Alternative dispute resolution is extremely successful in the United States. In states like Connecticut, about 90% of all civil cases settle before a trial. The system has judges dedicated specifically to a mediation docket in facilities specifically designed for that purpose.

Figure 5.25 : Potential of Lok Adalats in Reducing Pendency



5.7 Other Issues

Several other issues that are a part of public discourse also surfaced during our interactions with the stakeholders. Regarding old and outdated laws, majority of judges and advocates believed that time has come to abolish time barred laws, including procedural laws (CPC and CrPC) that were passed decades ago.

On the recommendation of Law Commission to reduce the court holidays and vacations, a majority of judges gave welcoming responses, whereas a few were reserved. Most public prosecutors did not want to comment on this matter. Surprisingly, a large number of advocates were not open to reducing the number of holidays.

Inefficiency and unavailability of non-judicial staff of court were softly raised by various stakeholders. South Africa records the percentage of criminal cases postponed due to

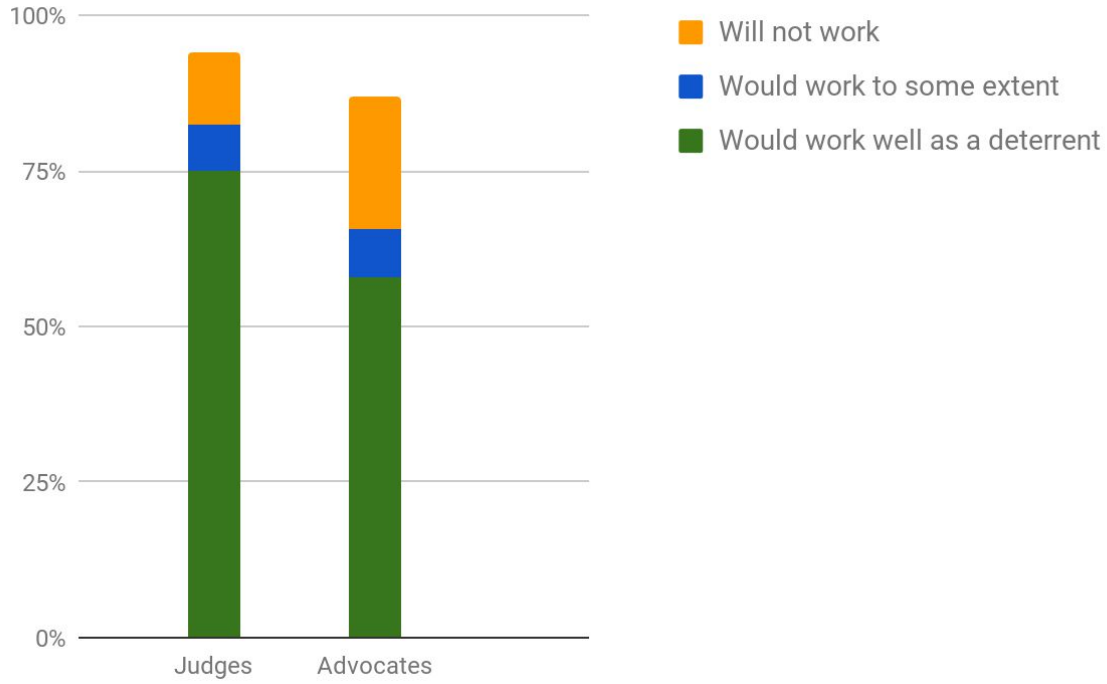
unavailability of court administration staff (non-judicial). A similar measurement is desirable for overall postponements - be it on the part of judicial officer, administrative staff, public prosecutor or other arms of government. The target for postponements due to administration staff in South Africa was 3%, which was achieved (0.2%). Corresponding figure for India is not available, but the number of occasions when presiding officer is not available is about 8% of total.

Although, clubbing together of similar cases is practiced in Indian courts, it is not as common as some of the other jurisdictions. Among the respondents that the study team interacted with, almost all had encountered such matters, but usually only in matters of motor accidents cases, land acquisition cases or institution against same authority like a bank. In view of a learned counsel, the cases are clubbed when pointed out by litigants but not suo moto.

Judges and advocates both shared that vexatious and frivolous litigation can be curbed by levying costs on such litigants. As represented in Figure 5.26, there is a near unanimity on this matter. However, there was no consensus on the amount of such cost, and it may be left to the discretion of presiding judge. Amendments may be required in CPC and high court rules to increase the maximum amount to at least 50,000 rupees.

A majority of judges are not convinced about utility of support from law clerks and case research assistants. Only one third of respondents opined that such support would definitely help, and another 15% felt that it may be largely helpful. The other half were skeptical that such support may be helpful only in some areas and to some extent, or would not be much helpful.

Figure 5.26 : Levying Costs on Frivolous Litigation



Chapter 6 : Recommendations and Conclusion

6.1 Summary of Findings

1. Analysis of pendency statistics from NJDG and comparison with international jurisdictions brings several issues to the fore. The rate of pendency among civil cases is higher than that in criminal cases, both in Maharashtra and in India. The pendency rate is also higher in superior courts than subordinate courts. In countries such as Sweden, South Africa and Malaysia, the rate of pendency is a small fraction; implying that many cases from any given year got disposed of by the end of year. Average time taken per case in these countries is less than a year.
2. Thus, the issue faced by Indian judicial system is not only the high pendency rate, but also the aging pattern of pending cases. There are many more old cases stuck in the Indian judicial system, than their progressive counterparts which rank higher on rule of law index. A basket with higher number of old cases puts additional burden on clearing the cases, as extra efforts are required to assimilate older information.
3. The number of case types in district courts of Maharashtra and the Bombay High Court are nearly 500. The process followed by a case differs by the case type. The 2500 odd case types observed at national level are unwieldy for any individual to comprehend and manage. Database maintained under eCourts project has managed to capture case level details for every date of hearing for all types of cases. With this data, it has now become possible to do cross-cutting analyses.
4. Among the pending cases, one finds a large number of cases from certain categories or acts. In districts of Maharashtra, nearly 30% of criminal cases are registered under the Negotiable Instruments Act, 35% of civil cases under Motor Vehicles Act and 15% of civil cases under Hindu Marriage Act.

5. Further, large amount of court time is taken up by absenteeism and adjournments. This could be due to delaying tactics adopted by litigants. Even when business is conducted, routine matters such as issue of notice, filing of pursis take up lot of entries in case diaries. Data about next level of reason, for instance reason for adjournment; is not available in NJDG. On a related note, consistency of data entry leaves something to be desired for, as elaborated later in Section 6.2.3.
6. Caseload per judge and judge to population ratio, which are believed to be the biggest reason behind pendency, are found to be comparable to international jurisdictions studied by the team. It is also evident from the responses by stakeholders, who do not believe inadequate capacity to be the top reason for pendency. Albeit, there is a correlation between caseload per judge and pendency; and judge to population ratio and pendency; it is not the single most important factor. The data from states that have achieved low pendency and arrears indicates that it is possible to achieve performance even in conditions of high caseload and adverse judge-to-population ratio.
7. As per the perspectives shared by stakeholders, one reason bigger than the capacity is the management of caseflow and courtrooms. Another contributor was identified as the gaming behavior by parties and their lawyers, whereas some lawyers believe that inefficiency on part of judges is contributing to pendency.
8. There are varying responses regarding which stage of case processing causes delays, particularly in civil cases, where a case could get stuck at almost any of the twelve stages. On criminal side, a case is likely to be delayed in one of the following three stages - Charge Sheet, Framing of Charges or Prosecution Evidence and Cross Examination. Flow in other eight stages is believed to be smooth.
9. The number of days taken by cases for passing different stages seems to follow a pattern, as predicted by different theories of queuing. The pattern differs from stage

to stage. A measure of central tendency - 'mode' statistic also varies from stage to stage, which is one day for Institution of Case and 90 days for Written Statement or Set-off. Tables 6.1 and 6.2 provide the statistic for different stages of a trial. Giving a validity to our study methodology, the pattern and 'mode' are similar for judges and advocates. Thus, there is an underlying phenomenon which is being represented by the shape of curves in Figures 5.1 to 5.19. Understanding and predicting patterns are early steps in managing any process.

Table 6.1: Timeline for a typical civil case

Sr No	Case Stage	Mode of Time Taken (number of days)	Range of Time Taken (number of days)
1	Case Institution	1	1-45
2	Issue of Summons	30	1-1229
3	Appearance of Defendant	--	2-711
4	Written Statement or Set-off	90	2-235
5	Framing of Issues	30	1-730
6	Plaintiff Evidence	--	3-548
7	Final Hearing	60	1-1095
8	Judgment	15	1-155
9	Appeal	30	15-2738

Table 6.2: Timeline for a typical criminal case

Sr No	Case Stage	Mode of Time Taken (number of days)	Range of Time Taken (number of days)
1	First Information Report	1	1-345
2	Investigation	730	8-730
3	Charge Sheet	90	1-700
4	Framing of Charges	7	1-730
5	Prosecution Evidence and Cross-Examination	365	1-1095
6	Statement of Accused	15	1-180
7	Defence Evidence and Cross-Examination	30	1-545
8	Final Arguments	30	1-210
9	Judgment	15	1-180
10	Arguments on Sentence	2	1-90

10. On measures of saving productive time of courts, most judges are in favour of using written submissions over oral arguments, whereas fewer lawyers and prosecutors like the idea. Same trend was seen for setting time-limits for arguments by each party. Further, those who supported time-limits felt that a generalized time-limit may not serve the purpose. The time-limit would depend on the nature of case.

11. The computerization and automation achieved through eCourts project showed its presence to the study team, both on the ground and remotely on NJDG. Data from NJDG and Case Information System was extensively used in analysis of the report. While every stakeholder appreciated the positive changes brought about by the system, not many advocates and prosecutors are fully convinced about its impact on

pendency. Most judges, however, see the potential of this initiative in taming the challenge of pendency.

12. Globally, ADR is emerging as an alternative to litigation. ADR is being increasingly used and mediated by courts. In Maharashtra, litigants recognize that certain disputes are better settled outside the court. However, nearly two-thirds of litigants in our sample were not aware of resolution through Arbitration, Mediation and Conciliation. The use of ADR mechanisms such as Lok Adalats was seen positively by judges, public prosecutors and those litigants who were aware of it. Most of these stakeholders believed that Lok Adalats could help in reducing pendency.

13. For reasons incomprehensible to study team, lawyers appeared to be reserved to the idea of Lok Adalats and their role in reducing pendency. Only 16% of advocates agreed that Lok Adalats and Evening Courts helped in reducing the burden on regular courts. Some lawyers expressed that involvement of advocates is necessary for improving the effectiveness of the Lok Adalats. There could be a fear that Lok Adalats act as competition to the profession of lawyers. The lawyers were also apprehensive of reducing the number of vacation days of the court. This could be a case of elite capture of the justice system.

14. Some of the commonly debated issues such as obsolete laws, court vacations, clubbing cases together, frivolous litigation, etc. were also identified during the course of the study. Barring litigants, most respondents did not feel the physical infrastructure or ICT infrastructure to be inadequate.

6.2 Recommendations

1. One of the hurdles to efficient policymaking is a lack of comprehensive and accurate data relating to cases from courts across the country. This issue has been noted by the Law Commission of India in its 245th Report as well as in the Action Plan of the

National Court Management System set up by the Supreme Court. Online information about case filings, case status and electronic copies of orders and judgments from courts that have already been computerized is available through the e-Courts portal. A beginning has been made in the form of online real time access to complete pendency data and statistics through the NJDG.

2. It is a potent tool provided the data entry of all pending cases of subordinate courts has been completed and the same updated on the NJDG servers on a regular basis. In pendency records of Supreme Court, there is a discontinuity in year 1992, data after which treats only main cases towards pendency and arrears, whereas before 1992 each case was considered. Inconsistencies in recording of pendency statistics could create discontinuities and lead to difficulties for subsequent analysis.
3. The team observed imperfections in process of recording case status on to eCourts CIS. Words such as ‘steps’, ‘adjournment’, ‘PO not available’ and ‘hearing’ were not used consistently across districts. Such ambiguity leads to confusion about the exact cause for lack of business on a particular day. There is a need to compile a handy list of most common business for a given case type, while also leaving scope for entering unusual events. Apart from ambiguity in language, it was observed that the practice of recording relevant act and section numbers was different, creating difficulty in subsequent analysis. Unambiguous recording of case information will help improve the accuracy of NJDG database.
4. Having said that, NJDG does maintain excellent and nearly realtime database of court cases across the country. Information from this data needs to be extracted to obtain meaningful insights. To begin with, the aggregate reporting of cases can be categorized with better granularity than only civil and criminal. This classification could be on the basis of case type, relevant section and/or act or logical categories such as appeals, oral hearings, commercial cases, etc. Such information can help in

benchmarking a district court with other district courts in understanding how much time is taken for hearing and disposal of a certain type of case, for instance a bail application. It also helps in resource planning and case flow management, as currently the caseload is measured through gut feeling and unrealistic 30 cases are put on board for the day. To help with analysis of database, it is recommended to develop query based lookup which will facilitate customized tabulation of cases using filter variables of user's choice.

5. Some of these tables may be of interest to broader audiences outside the justice system. These could form a part of periodical reporting or Management Information System. For instance, Ministry of Women and Child Welfare, National Commission for Women and other organizations may be interested in statistics related to women litigants or related to IPC sections 354, 375, etc.
6. Further, court managers need to be equipped with analysis reports, comparative studies and training on effectively using the NJDG database. Senior members in the judicial service should also be sensitized about the potential of NJDG, so that they can bring about data driven decision making in case flow management. High courts could deploy task forces or committees aided by data analysts to look into the pattern of delays in similar cases, and suggest strategies to circumvent the delays in their respective jurisdictions.
7. At a more advanced level, tools of Big Data and artificial intelligence could be roped in to understand the linkages between different variables and delays. Data sciences are best suited for dealing with the increasing volume of activity that is being seen across the courtrooms. Apart from making time management smooth, it is expected[33] that Big Data will bring disruption to case research the way Google changed the

[33] www.forbes.com/sites/bernardmarr/2016/01/20/how-big-data-is-disrupting-law-firms-and-the-legal-profession

internet. There is a window of opportunity for Indian judiciary to adopt technology even before the lawyers.

8. The Department of Justice and Constitutional Development in South Africa sets performance goals based on strategic objectives, and annually publishes statistics that measure achievement of the goals. A similar goal setting, measurement and open publication is desirable for various measures such as sanctioned positions, actual strength, adjournment per case, average adjournments sought by prosecution, time spent on oral arguments, time taken for cases under a certain act, unheard cases from causelist, days of lost business due to foreseeable / unforeseeable circumstances, days of unavailability of presiding officer, etc.
9. While on the one hand judicial statistics are important for policy formulation by the judiciary and the government; it is equally important on the other hand to place this information in the public domain so that key stakeholders like advocates, litigants, researchers and the citizens can be better informed about the state of the judicial system. The Annual Report of each High Court can play an important role in highlighting the work of judiciary as a public institution.
10. A review of processes, particularly time consuming processes related to documentation and communication needs to be carried out. Processes should be mapped in detail in order to understand the bottlenecks and ways to minimize lead time. Countries such as UK and South Africa have prepared detailed guidelines on improving the case flow management. These ‘practical guidelines’ would help, without unduly constraining, the judiciary in aligning the prioritization of cases with the priorities set by apex body. Along with court protocols, such as automated listing of cases at Supreme Court of India, ‘practical guidelines’ would help in better coordination among stakeholders. By bringing predictability in causelists and other processes in caseflow management, the protocols would improve productivity and

reduce absenteeism, unpreparedness, etc. The need for 'practical guidelines' is especially strong at long standing high courts where, for legacy reasons, the cumbersome wordings of processes are detrimental to smooth caseflow. A case in point could be the Chapter X of the Bombay High Court Appellate Side Rules, which consists of 18 rules dealing with Warned List, Weekly and Daily Boards. The same principle is covered in Chapter XVII, Dates and Cause Lists of Court Rules of High Court of Delhi in only four rules.

11. The current system of numbering and coding cases has evolved during a period of paper based record keeping. In today's age of digital record-keeping, filing, and databases; a new taxonomy needs to be evolved for classifying cases. Complexity due to hundreds of case types that are practiced today causes inefficiency in logistics. A tree-like system of case types needs to be developed and implemented for all new cases. As the case records are now searchable in CIS using Code, Act or Section numbers; the case type should be based on nature of case (appeal, application, regular case, special case, etc.) and not necessarily based on the act or law in question.

12. The officers holding position of Court Manager were found to be proactive and dynamic. However, they are limited by their formal and informal authority over the courtrooms. An amalgamation of Managing Judges, as practiced in Malaysia, and Court Managers would provide the right mix of judicial authority and operational efficiency in managing caseflow in Indian courtrooms, particularly in lower judiciary. A Managing Judge would be able to oversee that time is not wasted, especially during crucial pre-trial stages; and that cases are not postponed or adjourned unnecessarily. A Court Manager could assist the Managing Judge by providing reports and recommendations. In absence of Managing Judges, a closer collaboration between

Court Manager and Principal District Judge could go a long way in ensuring timely disposal of cases.

13. Since absenteeism and adjournments are the biggest reason for delay in courtroom proceedings, practical guidelines may be framed to advise the lower judiciary in countering these. These could include identification of offence that could at times amount to perjury and appropriate remedy - hearing in absence, fines, imposing a statute of limitation.
14. For more than half of our sampled litigants, it was the first direct encounter with the justice system. Litigants approach courts during some of the most difficult times, such as crime, property dispute, divorce, partition, etc. Success of justice system is in providing access and quick resolution. There are indications that a very high caseload in courts is putting off litigants from filing legitimate cases. This aspect needs to be assessed and addressed.
15. As noted in Section 6.1.6, inadequate capacity (read number of judges) is not the prime reason for pendency. Therefore, while allocating resources due importance should be given to control other factors such as court management, gaming behavior (including absconding), special courts, etc.
16. Pendency rate does have a link with caseload per judge, and with judge to population ratio. More judges are needed to clear the backlog of cases. At the same time, an equilibrium exists between the rate of institution and rate of disposal. Therefore, additional judges will be required only temporarily, unless the institution of new cases increases drastically due to quicker delivery of justice. Only time can tell whether the access to justice has been affected by the inordinate delays in justice system. Till such time, it may be appropriate to appoint additional judges on limited term contracts of about three years. After three years, depending on the pendency in the system, contract may be extended for some time or terminated. As per

calculations made in Section 4.5, 8,000 judges on contract are required to clear the pendency in 3 years. These may be appointed from among retiring judges, senior lawyers or common people after following due process.

17. It was also observed that jurisdictions with good performance at lower courts have a better ratio of judge-to-population at superior courts. It could be that pendency in higher courts has a ripple effect on decisions in lower courts. Quick and clear judgements from high court would smoothen the flow of cases in subordinate courts where there is a question of law. It may be desirable to increase bench strength at high courts, as more high court judges would reduce pendency in higher courts.
18. Delaying tactics come out as a strong reason for cases not getting concluded in time. Absenteeism and adjournments are responsible for over half of occurrences when court business does not take place. Practical guidelines that codify the steps to be taken when there is inordinate delay on part of defendant, prosecution, or any litigants of a civil case; or their lawyers; are the need of the hour. By signalling the intent of the higher judiciary, such guidelines are expected to bring in discipline among erring parties.
19. To minimize genuine conflict of dates with other courts, scheduling of cases may be done after checking for appearances in other courts electronically. A suitable unique identifier for individuals, lawyers and legal persons (institutions) may be used commonly by all courts, such as Aadhar Card, PAN, society registration number, etc.
20. Presiding officers are of the opinion that oral arguments tend to waste court time, and favour written statements. Although this is contested by both private lawyers and public prosecutors, it may be introduced in select case types. Cases where business is not conducted even after successive dates are good candidates for imposing such initiatives.

21. Over one third of dates are not productive for litigants on account of either presiding officer being unavailable or his honour's time being occupied by other cases. Scheduling right number of cases and giving advance notice, where possible, about the unavailability could minimize the unproductive visits by parties. Appropriate length of daily causelists should be a performance metrics for court managers, and be regularly monitored and published. Higher courts may constitute a task force to arrive at methodology to enable better scheduling.
22. Another idea worth considering is the distribution of cases in novel ways to reduce the variety with a judge at any point in time. Cases older than 10 years and other high priority cases where time is of essence are being handled with special attention. Such select cases may be taken up for day-to-day hearing, as is already being practiced by some judges. However, this approach could be extended to all matters likely to run for many months into future. These cases should be broken down into groups, such that a group of about 100 cases is handled at once. Only after a significant portion, say 80%, of first group are resolved, a second group of cases may be taken up. Such an approach would reduce diversity of cases running at one point and thereby the demand on his honour's resources.
23. Stakeholders perceive several factors to be contributing to the creation of arrears. These factors, such as time for oral arguments, may be recorded at case level and aggregated to validate stakeholder perceptions. Although rigorous observation of courtrooms through time and motion studies may not be practical or advisable, some alternate means to obtain data related to time utilized in different activities is necessary for evidence based decisions. This is in line with the recommendations of the Report Number 245 of Law Commission of India.
24. There is an opportunity hidden in every challenge. The high level of pendency and arrears is an opportunity to bring about process changes that do not depend on

human intervention, particularly in non-judicial aspects. There is a need for embracing automation wherever possible. Introduction of machines and use of available institutions or markets would efficiently carry out mundane work of humans, such as providing Ready Certified Copy. Eliminating non-essential human interface from workplaces would minimize accompanying inefficiencies, corruption, nepotism, etc.

25. A greater push for ADR mechanism is necessary, not just for reducing the burden on judiciary, but also for providing a quicker access to justice to matters that cannot wait in the queue. Morning Courts, Evening Courts and Lok Adalats have been largely effective, and their frequency may be increased. Special efforts are needed for popularizing ADRs, which were known to less than 40% of litigants.
26. Concerns and reservations of lawyers regarding Lok Adalats may be better understood through a dialogue between the bar and the bench. Legitimate concerns may be alleviated by making suitable amendments.
27. A rationalization is needed on the creation of and allocation of resources to special courts and administrative tribunals. Logically, a special court is warranted in one of two instances. First is when the subject involved is highly specialized, for instance TDSAT. Second instances is when the volume of cases is too high to follow a rigid system of case registration, for instance a traffic court in United States. In India, there are hundreds of laws that require special courts handle their subjects. This may be a counterproductive allocation of resources, creating specialization even in matters of general nature. Instead, special courts may be created for high volume cases, such as those under Negotiable Instruments Act.

6.3 Conclusion

A journey of eighteen months through courtrooms in Maharashtra has given us several insights into the justice delivery system. Through tireless efforts, various stakeholders in the justice system are playing their role beyond the call of duty, as evident from the attitude recorded in Annexure 6.1. Successful implementation of eCourts project gives us an opportune moment to develop the justice system and move higher in international rankings. There are five areas that need immediate attention.

1. Development of a nimble system for data analysis: Rich database from eCourts project can be exploited through a system that allows working on the data. This would help governance by making it easy to monitor various parameters including pendency. Analysis of data would also help better distribution of cases, by case types and by time (dates).
2. Curbing the gaming behavior of litigants: A successful system must be two steps ahead of its constituents. In the context of justice system, scientific use of data from NJDG should help the judiciary in framing strategies to counter the tactics used by litigants and accused. A task force at high court level or other suitable body may provide a plan of action for lower judiciary. Such a plan could be an effective tool, for instance, against absenteeism and adjournments that take away three-fifths of available time.
3. Creation of a temporary capacity: The objective of this step would be to bring down pendency within a short time of two years. This could be achieved by appointing fixed term judges either from pool of retired judges, or pool of senior lawyers, or from among other professionals and citizens. Such capacity and precedence would also act as buffer during any future spurts of excessive pendency.
4. Process Reengineering: A system that has largely evolved during pen and paper based record keeping requires a rejig to eliminate activities and exceptions that do not add value in the age of computerization. Availability of online case level data across hundreds of case types makes it possible to undertake this exercise with minimal efforts.

5. Awareness about Lok Adalats and ADR: Although most stakeholders are positively disposed towards ADR, its ubiquity is not as per expectation. A crucial bottleneck in this is believed to be the awareness in general population. Even among our sample of litigants, who took the efforts to file a case; the awareness was below 40%.

A process driven approach with the help of scientifically collected data is the way forward in bringing down the pendency rates in Indian courts. This methodical approach would uncover patterns hidden in huge number of cases stuck in our courtrooms, particularly lower courts where bulk of the cases lie. Such systemic changes would complement the motivation, commitment and positive attitude of stakeholders in overcoming the challenges in times to come.

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Analysis of Causes for Pendency in High Courts and Subordinate Courts in Maharashtra

Submitted to
Department Of Justice
Government Of India
Jaisalmer House,26-Mansingh Road,
New Delhi-110011.

ANNEXURE

Administrative Staff College of India
Bella Vista, Hyderabad – 500 082

January 2018

INDEX

Annexure 2.1-Permission Letter from High Court.

G.C.P.)J.3950 (25,000----4-2012)
G.R.J.D.No.4398, dated 3-7-16]
Tel. No. : 22616946

No. G. 830/2016/
High court, Original side,
Bombay17th December, 2016

FROM: **SHRI D .V. SAWANT, BA,(Spl),LL.M.,**
Prothonotary and Senior Master,
High court, Original side, Bombay.

To,
Shri. Dushyant Mahadik
Project Leader (NMJD Project),
And Assistant Professor (Centre for Economics and Finance),
Administrative Staff College of India,
Bella Vista, Raj Bhavan Road
Hyderabad -500082.

Subject: -Your request to grant permission for collecting Data from High Court and Subordinate Courts.

Sir,

With reference to your E-mail letter dated 15/10/2016,on the subject noted above ,I am to state that your aforesaid request was placed before the Hon'ble the Chief Justice for consideration and Her Ladyship has been pleased to grant permission for collecting the data from High Court and Subordinate courts for purpose of Study by the team comprising of Mr.Hussain Aamir ,Legal Research Associate, Mr. Manoj Sattar, Legal Research Associate and Ms.Swetcha Tekuru , Legal Research Associate, on following conditions :

1) The records/court orders should be seen in the court premises and in the presence of an official of the court designated by the Registrar General or Prothonotary and Senior Master High Court, Bombay Registrar (Admin).High Court Bench at Aurangabad and Nagpur Principal Judge ,City Civil and Session Court ,Mumbai, the Principal District and sessions Judge , Aurangabad Jalgaon,Kholapur,Parbhani,Ratnagiri ,Satara,yavatmal and Chairman Motor Accident Tribunal,Mumbai.

2) That the information obtained from the High Court Bombay, Bench at Aurangabad and Nagpur,SessionsCourt,Mumbai,Districtcourt,Aurangabad,Jalgaon,Kolhapur,Nagpur,Parbhani, Ratnagiri,Satara,Yavatmal and Motor Accident Claims Tribunal,Mumbai shall not be used for any purpose other than the purpose for which the permission has be asked for viz. Study and etc.

3) The names of the parties in the proceeding/court orders shall not be disclosed and the same shall be kept confidential.

4) The Court work should not be affected by their research work.

5) That the data should not be used for writing articles in newspapers or journals.

6) That the copies of the reports, dissertation or any other published material, on the strength of the said research ,shall be submitted to the High Court .

I am therefore, to request you to take note thereof and act accordingly.

Yours faithfully,

Prothnotary and Senior Master.

No.G. /2016/830

Copy forwarded with compliment to:-

1) The Registrar (Inspection -1), High Court, Appellate side, Bombay.
2) The Registrar (Judicial –I), High court, Appellate side, Bombay.
3) The Principal Judge, City Civil and Sessions court, Mumbai.
4) The Registrar (Admn.) High court Bench at Aurangabad, Aurangabad.
5) The Registrar (Admn.)High court Bench at Nagpur, Nagpur.
6) The principal District and Sessions Judge, Aurangabad/Jalgaon/Kolhapur/Nagpur/Parbhani/Ratnagiri/Satara/Yavatmal.
7) Chairman, Motor Accident Claims Tribunal, Mumbai.

HIGH COURT, ORIGINAL SIDE, :

BOMBAY, DATED 17TH DECEMBER 2016 : Prothonotary and Senior Master

Annexure 2.2- Schedule of Visits

S.NO	DATE	DISTRICT	TEAM SIZE
1.	22.09.2016 – 25.09.2016	Parbhani	3
2.	02.10.2016 – 04.10.2016	Parbhani	1
3.	22.12.2016 – 25.12.2016	Satara	3
4.	14.01.2017 – 15.01.2017	Kolhapur	2
5.	16.01.2017	Kolhapur	1
6.	16.01.2017 - 19.01.2017	Ratnagiri	3
7.	27.01.2017 – 29.01.2017	Mumbai	2
8.	29.01.2017 - 01.02.2017	Yavatmal	3
9.	24.02.2017 - 27.02.2017	Aurangabad	3
10.	28.02.2017 – 03.03.2017	Jalgoan	3

Annexure 2.3- Rationale for Selecting Jurisdictions for Benchmarking

The other jurisdictions have been selected based on various parameters such as type of polity, type of law and judicial system, population, economic status, ranking in the rule of law index by World Justice Project and similarity to Indian Justice System.

Ranking in World Justice Project rule of law index: The World Justice project® (WJP) is an independent, multidisciplinary organization working to advance the rule of law around the world, its ranking is derived from internationally accepted standards and its fourth principle for deriving ranking is as follows: "Justice is delivered timely by competent, ethical, and independent representatives and neutrals who are of sufficient number, have adequate resources, and reflect the makeup of the communities they serve." The above stated principle is particularly relevant for this study; as such ranking from this project has been relied upon to select certain jurisdictions. This cannot be more true for Sweden, which falls among the top countries in the rule of law index with a sizable population. U.K is ranked 12th, U.S.A is next with a rank of 19. South Africa comes at 36 closely followed by Malaysia which is ranked 39th, India is ranked 59th.

Population: Large populations requires larger number of judges to administer justice on time, here is where judge population ratio comes in as India being the second most populous country makes population a relevant parameter for selection of other jurisdictions for a comparative study, however it is admitted that not all jurisdictions have been selected based solely on their population, population has been taken into consideration as far as possible but it has its limitations as no other country with a democratic form of government has such sizeable populations as India has. The populations of all the countries studied are as follows: India has a population of 1,326,801,576; United States is third most populous country with a population of 324,118,787, United Kingdom is ranked 21 in the world with a population of 65,111, 314 South Africa is ranked 25 and has a population of 54,978,907; Malaysia is ranked 44th with a population of 30,751,602; Sweden is the least populated country selected for this study its population is as follows 9,851,852.

Development and Progress of the Country: Development and progress is determined by various parameters i.e. Human development index, Gross domestic product and Income groups as classified by World bank. In this study to select the jurisdictions, the countries have been selected based on the Income groups as classified by world Bank, According to world bank 2016 classification , India is a lower middle income country with potential to swiftly become an upper middle income country, as such it was only logical to select countries above the lower middle income group. Malaysia and South Africa are both upper middle income countries and Sweden, United States and United Kingdom are all high income with membership of Organisation for Economic Cooperation and Development (OECD).

The jurisdictions namely Malaysia, South Africa, Sweden, United Kingdom and United States are selected for comparative study with India. These jurisdictions also have a high

ranking in rule of law index, sizable population and a policy that is neither a communist regime nor a dictatorship nor an absolute monarchy.

References:

1. Rule of law index World Justice Project 2015 retrieved from – http://worldjusticeproject.org/rule-law-around-world
2. 2016 Data based on the latest United Nations Population Division estimates. http://www.worldometers.info/world-population/population-by-country/
3. http://blogs.worldbank.org/opendata/new-country-classifications-2016
4. http://chartsbin.com/view/2438

Annexure 2.4-Questionnaires for Judges.

Administrative Staff College of India, Hyderabad is conducting legal research awarded by Department of Justice, Ministry of Law and Justice, Government of India, at High Courts and subordinate courts of Maharashtra by interviewing Judges, Court Officers, Administrative Staff, Advocates, Prosecutors and litigants. Your responses are voluntary and will be confidential. Responses will not be identified by individual. All responses will be compiled together and analyzed as a group. All the data collected for this project will be in compliance with the Ethical standards of Socio-Legal research.

Questionnaire for Hon'ble Judge:-

Name:

Name of the Court:

Location:

Current Designation: Holding the position since:

Appointed to the current position through: - a) direct recruitment b) transfer c) promotion.

Previous position(s) held:

Total experience:

Contact details:

Reforms in Justice System

1) According to you which of the following Reforms are needed to reduce the pendency of cases – (Please rank)

a) More Judges and more courtrooms to meet the issue of inadequate capacity of judicial system.

b) Improved Court Management.

c) Minimizing adjournments.

d) Setting a time limit for Arguments.

e) A stern stance on Perjury and misleading the court.

f) Any others? Please Specify

2) Majority of the delay in justice delivery can be attributed to:

a) Inadequate capacity

b) Existing way of Court management. c) Courtroom officials. d) Judges.

e) Advocate. f) Litigants.g) Prosecutors.

3) In Indian judicial system, based on the delayed cases that you have experienced, can it be said that "justice delayed is justice denied"?

a) Strongly Agree b) Agree c) Disagree d) Strongly Disagree

4) Would introduction of electronic filing of cases and e-courts help speed up court process?

5) In general how much time is given for Arguments?

6) Should there be a time limit for arguments? a) Yes b) No

6a) if yes, how much

7) Do you favour written submissions over oral arguments to save time? a) Yes b) No

8) The Law Commission recommends reducing the number of holidays, how many holidays shall be taken by Courts per year?

9)Is ambiguity in Judgements one of the causes for pendency? a) Yes b) No

9a) if yes, what can be done about it?

10) What measures must be taken for better protection of witnesses?

11) What amendments should be made or a scheme be enacted for protection of witnesses?

12) What steps should be taken to enforce Perjury Laws?

13) Does appointment of Chief Justice from the same state helps in resolving conflicts between Bar and Bench specially relating to strikes by Bar?

14) Are there any guidelines for number of courts and the number of sanctioned post as a ratio of population or number of cases or any other metric?

14a) If yes, then briefly explain.

15) According to you which is the best method to determine the number of Judges needed?

a) Judge Population ratio. b) Time based method.

c) Ideal Case load method. d) Rate of Disposal Method

16) What can be done to attract young law graduates/ advocates to join judicial service?

17) Do you believe that formation of All India Judicial Service will solve the vacancy and recruitment problems in Subordinate Judiciary?

18) Do you think that increasing the retirement age for Judges will help in decreasing pendency?

a) Yes b) No

18a) if yes, what should be the retirement age _____

19) For hearing more cases per day, does the working hours of judges need to be increased?

20) Will the introduction of the National Litigation Policy help in curbing the large scale litigation undertaken by the Governments? a) Yes b) No

21) Can the current Adversarial System in India be replaced by Inquisitorial System?

21a) if so to what extent and will it helps in solving cases early?

22) Can Lok Adalats be helpful in decreasing pendency?

a) Not at all helpful b) not much helpful c) somewhat helpful d) very helpful

23) What measures can be taken to improve the effectiveness of Lokadalats?

24) In your jurisdiction which types of additional courts are needed?

a)Negotiable Instruments Court b) Family court c) Fast track courts

d) Evening courts e) Permanent Lokadalats f)Lokadalats

25) Is there a need to abolish more obsolete laws or classify more laws as obsolete and abolish them?

26) Will assigning Law clerks cum research assistants to Judges, solve the problem of delays in delivering of final Judgments?

a) Definitely help.

b) Help a large extent.

c) Help to some extent in some areas.

d) Will not help much.

27) On what basis is the date of next hearing is fixed? Suggestions:

Civil Side Questions

1) Which stage takes the most time for completion?

a) Institution phase b) Trial phase c) Judgment phase.

2) Please indicate average time taken by each stage and whether the stage contributes to delay significantly.

A) Institution phase

Stages	**Average time**	**Contribution to delay Yes/No**
Institution of suit		
Issue and Service of Summons		
Appearance of Defendant		
Return Statement/Set off		
Replication, rejoinder		
Framing of issues		

B) Trial phase

Stages	**Average time**	**Contribution to delay Yes/No**
Plaintiff evidence		
Cross examination of plaintiff		
Defendant evidence		
Cross examination of defendant		
Final hearing		

C) Judgment phase

Stages	Average time	Contribution to delay Yes/No
Judgment		
Review of Decree		
Appeal		
Execution of Decree		

3) Is there a need to introduce pre-institution guidelines for private parties on the lines of Sec. 80 of C.P.C 1908 for pre-suit settlement thereby lowering the burden on judiciary?

4) Do you advice the parties to go for Arbitration, Mediation and Conciliation?

a) Yes b) No c) Sometimes

5) How many cases that are similar get clubbed together?

6) Is levying of cost on vexatious and frivolous litigation works as a deterrent?

7) What amendments should be made to Sec.35, 35A, 35B of C.P.C and concerned

High Courts rules to levy heavy cost?

8)According to you did the lokadalats and evening courts helped in reducing the burden on regular courts? a) Yes b) No

8a) if yes, to what extent and do they need to be increased?

9) How far the provisions of order 17 of Civil Procedure Code are is being followed by the Courts?

a) Not at all b) Rarely c) Regularly d) Sometimes

10) How far a successful litigant should be indemnified for the costs incurred?

a) Nominal b) Partly c) Fully d) Not at all

11) Does making payment for consideration of every sale only through Bank Draft, help

bring down unnecessary property dispute litigation?

12) Can the time bound procedure followed in Commercial Courts be replicated in Civil Courts?

a) Yes b) No State the reasons:

13) Which type of civil cases mostly gets delayed?

14) Top three impediments faced in civil cases?

a)

b)

c)

Criminal Side Questions

1) How often is the accused informed about the provisions of Chapter 21A of Cr.P.C relating to Plea bargaining?

a) Not at all b) Always c) Rarely d) Frequently

2) Please indicate average time taken by each stage and whether the stage contributes to delay significantly.

Stage	Average time	Contribution to delay Yes/No
Filing of Charge Sheet		
Framing of Charges		
Prosecution Evidence and its cross examination		
Statement of Accused		
Evidence of Defence and its cross examination		
Final Arguments		
Delivery of Judgments		
Arguments on sentence		
Judgment with Punishment		

3) Does making Section 498A, 324,326,384,385,461,489 and 507 of I.P.C compoundable helps in reducing the burden of backlogs?

4) Do you favour establishment of separate Investigation wing from police for speedy investigation?

5)In your view, do police officers indulge in frivolous and vexatious cases? –

a) Never b) Rarely c) Sometimes d) Often

6)Will transferring power of filing Charge Sheet from Police to Prosecutor as seen in C.B.I help curb frivolous cases by Police?

7) Should there be only one forum to file revisions, instead of having High Court as well as Sessions Court?

8) Which type of Criminal cases mostly gets delayed?

9) Top three impediments faced in proceedings of criminal cases?

a)

b)

c)

10) How can you contribute to reducing delays and pendency of cases?

11) Do you have any other suggestions:

Annexure 2.5-Questionnaires For Advocates

Administrative Staff College of India, Hyderabad is conducting legal research awarded by Department of Justice, Ministry of Law and Justice, Government of India, at High Courts and subordinate courts of Maharashtra by interviewing Judges, Court Officers, Administrative Staff, Advocates, Prosecutors and litigants. Your responses are voluntary and will be confidential. Responses will not be identified by individual. All responses will be compiled together and analyzed as a group. All the data collected for this project will be in compliance with the Ethical standards of Socio-Legal research.

Questionnaire for Advocates:-

Name:

Name of the Court:

Location:

Contact details:

How long have you been practicing_____?

Are you designated as a Senior Advocate? a) Yes b) No

Primarily associated _____court. And other courts often visited _____

Your area of expertise and focus_____

Reforms in Justice System

1) According to you which of the following Reforms are needed to reduce the pendency of cases – (Please rank)

a) More Judges and more courtrooms to meet the issue of inadequate capacity of judicial system.

b) Improved Court Management.

c) Minimizing adjournments.

d) Setting a time limit for Arguments.

e)A stern stance on Perjury and misleading the court.

f)Any others? Please Specify

2) Majority of the delay in justice delivery can be attributed to:

a) Inadequate capacity b) Existing way of Court management. c) Courtroom officials.

d)Judges. e)Advocate. f) Litigants. g) Prosecutors.

3) In Indian judicial system, based on the delayed cases that you have experienced, can it be said that "justice delayed is justice denied?

a) Strongly Agree b) Agree c) Disagree d) Strongly

4) Disagree would introduction of electronic filing of cases and e-courts help speed up court process?

5) In general, how much time is given for Arguments?

6) Should there be time limit arguments?

a) Yes b) No

6a) if yes, how much

7) Do you favour written submissions over oral arguments to save time?

a) Yes b) No

8) The Law Commission recommends reducing the number of holidays, how many Holidays shall be taken by Courts per year?

9) Is ambiguity in Judgements one of the causes for pendency?

a) Yes b) No

9a) if yes, what can be done about it?

10) What measures must be taken for better protection of witnesses?

11) What amendments should be made or a scheme be enacted for protection of witnesses?

12) What steps should be taken to enforce Perjury Laws?

13) Does appointment of Chief Justice from the same state helps in resolving conflicts between Bar and Bench specially relating to strikes by Bar?

14) Are there any guidelines for number of courts and the number of sanctioned post as a ratio of population or number of cases or any other metric?

14a) If yes, then briefly explain

15) According to you which is the best method to determine the number of Judges Needed?

a) Judge Population ratio. b) Time based method.

c) Ideal Case load method. d) Rate of Disposal Method.

16) What can be done to attract young law graduates/ advocates to join judicial service?

17) Do you believe that formation of All India Judicial Service will solve the vacancy and recruitment problems in Subordinate Judiciary?

18) Do you think that increasing the retirement age for Judges will help in decreasing pendency? a) Yes b) No

18a) if yes, what should be the retirement age?

19) For hearing more cases per day, does the working hours of judges need to be Increased?

20) Will the introduction of the National Litigation Policy help in curbing the large-scale litigation undertaken by the Governments? a) Yes b) No

21) Can the current Adversarial System in India be replaced by Inquisitorial System?

21a) if so to what extent and will it help in solving cases early?

22) Can Lokadalats be helpful in decreasing pendency?

a) Not at all helpful b) Not much helpful c) Somewhat helpful d) Very helpful

23) What measures can be taken to improve the effectiveness of Lokadalats?

24) In your jurisdiction which types of additional courts are needed?

a) Negotiable Instruments Court b) Family court c)Fast track courts

d) Evening courts e) Permanent Lokadalats f)Lokadalats

25) Is there a need to abolish more obsolete laws or classify more laws as obsolete and abolish them?

26) How often you have to seek an adjournment in a Court because you have a matter in another Court at the same time?

a) Daily b) Weekly c) Sometimes d) Rarely

Civil Side Questions

1) Which stage takes the most time for completion?

a) Institution phase b) Trial phase c) Judgment phase.

Please indicate average time taken by each stage and whether the stage contributes to delay significantly.

A - Institution phase

Stages	Average time	Contribution to delay Yes/No
Institution of suit		
Issue and service of summons.		
Appearance of defendant.		
Written Statement /Set off		
Replication, rejoinder.		
Framing of issues.		

B - Trial phase

Stages	Average time	Contribution to delay Yes/No
Plaintiff evidence		
Cross examination of plaintiff		
Defendant evidence		
Cross examination of defendant		
Final hearing		

Stages	Average time	Contribution to delay Yes/No
Judgment		
Review of Decree		

Appeal		
Execution of Decree		

2) Is there a need to introduce pre-institution guidelines for private parties on the lines of Sec. 80 of C.P.C 1908 for pre suit settlement thereby lowering the burden on judiciary?

3)Do you advise your client to go for Arbitration , Mediation or Conciliation?

a) Yes b) No c)Sometimes.

4) How many cases that are similar get clubbed together?

5) Is levying of cost on vexatious and frivolous litigation works as a deterrent?

6) What amendments should be made to Sec.35, 35A, 35B of C.P.C and concerned High Courts rules to levy heavy cost?

7) According to you did the lokadalats and evening courts helped in reducing the burden on regular courts? a) Yes b) No

7a) if yes, to what extent and do they need to be increased?

8) How far the provisions of order 17 of Civil Procedure Code are is being followed by the Courts?
a) Not at all b) Rarely c) Always d) Sometimes

9) How far a successful litigant should be indemnified for the costs incurred?
Nominally b) Partly c) Fully d) Not at all

10) Does making payment for consideration of every sale only through Bank Draft, help bring down unnecessary property dispute litigation?

11) Can the time bound procedure followed in Commercial Courts be replicated in Civil Courts? a) Yes b) No State the reasons

12) Which type of civil cases mostly gets delayed?

13) Top three impediments faced in proceedings of cases?
a)
b)

c)

Criminal Side Questions

1) How often is the accused informed about the provisions of Chapter 21A of Cr.P.C relating to Plea bargaining?

a) Not at all b)Always c)Rarely d) Frequently

Please indicate average time taken by each stage and whether the stage contributes to delay significantly.

Stage	Average time	Contribution to delay Yes/No
F.I.R		
Investigation		
Filing of Charge Sheet		
Framing of Charges		
Prosecution Evidence and its cross examination		
Statement of Accused		
Evidence of Defence and its cross examination		
Final Arguments		
Delivery of Judgments		
Arguments on sentence		
Judgment with Punishment		

2) Does making Section 498A, 324,326,384,385,461,489 and 507 of I.P.C compoundable helps in reducing the burden of backlogs?

a) Yes b) No State the reasons

3) Do you favour establishment of separate Investigation wing from police for speedy investigation?

4) Can courts for under-trials be held in the local jail?

4a) if so, how often

5) In your view, do police officers indulge in filing frivolous and vexatious cases?

a) Never b) Rarely c) Sometimes d) Often

6)Will transferring power of filing Charge Sheet from Police to Prosecutor as seen in C.B.I help curb frivolous and vexatious cases by Police?

7) Should there be only one forum to file revisions, instead of having High Court as well as Sessions Court?

8) Which type of Criminal cases mostly gets delayed?

9) Top three impediments faced in proceedings of cases?

a)

b)

c)

10) How can you contribute to reducing delays and pendency of cases?

11) Do you have any other suggestions?

Annexure 2.6-Questionnaires for Prosecutors.

Administrative Staff College of India, Hyderabad is conducting legal research awarded by Department of Justice, Ministry of Law and Justice, Government of India, at High Courts and subordinate courts of Maharashtra by interviewing Judges, Court Officers, Administrative Staff, Advocates, Prosecutors and litigants. Your responses are voluntary and will be confidential. Responses will not be identified by individual. All responses will be compiled together and analysed as a group. All the data collected for this project will be in compliance with the Ethical standards of Socio-Legal research.

Questionnaire for Prosecutors: -

Name:

Name of the Court:

Location

Current position:

Holding the position since:

Appointment to current position through: a) direct recruitment b) promotion c) transfer

Previous position(s) held:

Total experience:

Contact details:

Reforms in Justice System

1) According to you which of the following Reforms are needed to reduce the pendency of cases – (Please rank)
   a) More Judges and more courtrooms to meet the issue of inadequate capacity of judicial system.
   b) Improved Court Management.
   c) Minimizing adjournments.
   d) Setting a time limit for Arguments.
   e) A stern stance on Perjury and misleading the court.
   f) Any others? Please Specify

2)Majority of the delay in justice delivery can be attributed to:

a) Inadequate capacity b) Existing way of Court management.

c) Courtroom officials. d)Judges. e)Advocate f) Litigants. g)Prosecutors.

3) In Indian judicial system, based on the delayed cases that you have experienced, Can it be said that "justice delayed is justice denied"?

a) Strongly Agree b) Agree c) Disagree d) Strongly Disagree

4) Would introduction of electronic filing of cases and e-courts help speed up court process?

5) In general, how much time is given for Arguments?

6) Should there be a time limit for arguments? a) Yes b) No

6a) if yes, how much

7) Do you favour written submissions over oral arguments to save time?

a) Yes b) No

8) The Law Commission recommends reducing the number of holidays, how many holidays shall be taken by Courts per year?

9) Is ambiguity in Judgements one of the causes for pendency?

a) Yes b) No

9a) if yes, what can be done about it?

10) What measures must be taken for better protection of witnesses?

11) What amendments should be made or a scheme be enacted for witness protection?

12) What steps should be taken to enforce Perjury Laws?

13) Does appointment of Chief Justice from the same state helps in resolving conflicts between Bar and Bench specially relating to strikes by Bar?

14) Are there any guidelines for number of courts and the number of sanctioned post as a ratio of population or number of cases or any other metric?

14a) If yes, then briefly explain.

15) According to you which is the best method to determine the number of Judges needed?

a) Judge population ratio. b) Time based method.

c) Ideal Case load method. d) Rate of Disposal Method.

16) What can be done to attract young law graduates/ advocates to join judicial service?

17) Do you believe that formation of All India Judicial Service will solve the vacancy and recruitment problems in Subordinate Judiciary?

18) Do you think that increasing the retirement age for Judges will help in decreasing pendency?

a) Yes b) No

18a) if yes, what should be the retirement age?

19) For hearing more cases per day, does the working hours of judges need to be increased?

20) Will the introduction of the National Litigation Policy help in curbing the large scale litigation undertaken by the Governments? a) Yes b) No

21) Can the current Adversarial System in India be replaced by Inquisitorial System?

21a) if so to what extent and will it help in solving cases early?

22) Can Lokadalats be helpful in decreasing pendency?

a) Not at all helpful b) not much helpful c) somewhat helpful d) very helpful

23) What measures can be taken to improve the effectiveness of Lokadalats?

24) In your jurisdiction which types of additional courts are needed?

a) Negotiable Instruments Court b) C.B.I courts c)Fast track courts

d) Evening courts e) Permanent Lokadalat f)Lokadalat

25) Is there a need to abolish more obsolete laws or classify more laws as obsolete and abolish them?

26) Are the number of APP/Adl.PP and PP sufficient?

a) Yes b) No

26a) if not, what can be done to strengthen it?

27) Do all the Prosecutors come under Directorate of Prosecution? Or shared with the States Law and Justice Department?

Criminal Side Questions

1) How often is the accused informed about the provisions of Chapter 21A of Cr.P.C relating to Plea bargaining?

a) Not at all b) Always c) Rarely

d) Frequently

Please indicate average time taken by each stage and whether the stage contributes to delay significantly.

Stage	**Average time**	**Contribution to delay Yes/No**
F.I.R		
Investigation		
Filing of Charge Sheet		
Framing of Charges		
Prosecution Evidence and its cross examination		
Statement of Accused		
Evidence of Defence and its cross examination		
Final Arguments		
Delivery of Judgments		
Arguments on sentence		
Judgment with Punishment		

2) Does making Section 498A, 324,326,384,385,461,489 and 507 of I.P.C compoundable helps in reducing the burden of backlogs?

3) Do you favour establishment of separate Investigation wing from police for speedy investigation?

4) Can courts for under-trials be held in the local jail?

4a) if so, how often

5) In your view, do police officers indulge in frivolous and vexatious cases?

a) Never b) Rarely c) Sometimes d) Often

6)Will transferring power of filing Charge Sheet from Police to Prosecutor as seen in C.B.I help curb frivolous cases by Police?

7) Should there be only one forum to file revisions, instead of having High Court as well as Sessions Court?

8) Which type of Criminal cases mostly gets delayed?

9) Top three impediments faced in proceedings of cases?

a)

b)

c)

10) How can you contribute to reducing the delays and pendency of cases?

11) Do you have any other suggestions?

Annexure 2.7-Questionnaires for Litigants

Administrative Staff College of India, Hyderabad is conducting legal research awarded by Department of Justice, Ministry of Law and Justice, Government of India, at High Courts and subordinate courts of Maharashtra by interviewing Judges, Court Officers, Administrative Staff, Advocates, Prosecutors and litigants. Your responses are voluntary and will be confidential. Responses will not be identified by individual. All responses will be compiled together and analyzed as a group. All the data collected for this project will be in compliance with the Ethical standards of Socio-Legal research.

Questionnaire for Litigants:-

Personal Details:

Name of Person:

Age: Gender : Education :

Social Category : SC/ST/OBC/General Economic Category : AAY / BPL / APL(tick)

Plaintiff/Defendant (tick)

Case and institution details:

1) Case Number:
2) Type of dispute:

3) Who is the opposing party? a) State Government. b) Central Government.
   c) Public Sector Undertaking. d) Private persons.

4) Did you approach the State/Distict Legal Service Authority? a) Yes b) No.
   a) If yes were you allotted an advocate? a) Yes b) No
   b) What was the advice given?

5)Did you know about Arbitration, Mediation , and Conciliation? a) Yes b) No.

5a)If yes, how did you come to know about it?

a)Friends/Relatives. b) Legal Service Authority. c) Advocate

d) Judge. e) Reading/News.

6)Is there a chance of settling the dispute out of Court? a) Yes b)No

6a)If so would you be willing to approach Lokadalat for settling the dispute?

7)How did you filed the suit? (not applicable to defendant)

a) Myself. b) My Advocates clerk. c) Independent clerk.

8)Would you welcome the use of electronic filing and online payment of court fees?

a)Yes b)No

9a) What are the obstacles and challenges to filing the suit online?

10)Date of institution of suit:

11)Date of first hearing:

12)Distance traveled by you to attend the court (kms) and time taken:

13)How easy or difficult was it to find an advocate

14)In your view the fees charged by lawyers is:

a) Low b) Affordable

c) High d) Very High

15)How satisfied are you with the handling of your case by your advocate ?

a) Completely Satisfied b)Highly Satisfied

c)Somewhat Satisfied d)Not Satisfied.

16)How many times did your suit got adjourned:

17)What is the average gap between two hearings?

18)Your understanding of legal procedures:

a) Very good. b) Good.

c) Average. d)Poor.

19)What have been the major causes for delays in the case:

1) 2) 3)

20)Which of the causes were unavoidable:

21)For other causes, how the delay can be reduced:-

a) Reducing number of court holidays b) Reducing number of adjourments

c) Increasing Courts and Judges d) any other:-

22)Among different participants/stakeholders/players/ of legal system, who was ultimately responsible for most of the delays:-

a) Opponent(s) or their lawyers b) Lawyers representing my case

c) Myself or other litigants from my side d) Courtroom officials

d) Hon'ble Judges e) Any others:-

23)Systemic reasons for delays :

a) Number of working day b) Legally mandatory notice periods

c) Number of courts d) Staffing of vacant positions

24)Any systemic solution for reducing the delays

25)Were you involved in a lawsuit prior to this suit? a) Yes b) No .

25a) If yes what was your experience?

26) How can you contribute to reducing delays and pendency of cases?

27)Do you have any other suggestions:

Annexure 2.8-Questionnaires for Registry

Administrative Staff College of India, Hyderabad is conducting legal research awarded by Department of Justice, Ministry of Law and Justice, Government of India, at High Courts and subordinate courts of Maharashtra by interviewing Judges, Court Officers, Administrative Staff, Advocates, Prosecutors and litigants. Your responses are voluntary and will be confidential. Responses will not be identified by individual. All responses will be compiled together and analyzed as a group. All the data collected for this project will be in compliance with the Ethical standards of Socio-Legal research.

Questionnaire for Registry and other Officials

Personal Profile:

Name:

Court:

Contact detail:

Designation:

Other details:

Questions of pendency(statistical)

1) Total number of various categories of cases civil and criminal pending on 31.12.2015 in courts of district?

2) Total number of summary cases pending as o31.12.2015._____

3)Total number of civil cases filed in 2015? _____

4) Total number of civil cases disposed in 2015? _____

5) Of the total number of civil cases disposed in 2015, total numbers of cases appealed in District courts were _____.

6) Total number of criminal cases filed in 2015? _____

7) Total number of criminal cases disposed in 31.12.2015? _____

8) Of the total number of criminal cases disposed in 2015, total numbers of cases appealed in Sessions courts were _____.

9) How many civil, criminal and, other cases are received on average by each court per day?

10) Total number of cases put up on dormant file till period 31.12.2015?

Questions relating to Building and Infrastructure

01) Is the court building a government building or taken on lease? If on lease is the building being shared? a) Yes b) No.

1a) If yes a) with government b) with private persons c) Semi government

02) Whether the building is: a) Congested b) Sufficient c) Spacious

03) Please tick the facilities available to the staff:-

a) Lunch room

b) Wash rooms

c) Drinking Water

d) Canteen facility

e) Separate Bar room for women advocates

f) Any other may be stated

04) What are the basic demands by the employees/staff relating to infrastructure?

05) Is the quality of overall work environment for employees up to the mark?

a) Yes b)No 17a) If not what can be improved?

06) How many courts are lying vacant and since what time?

07) Is the infrastructure in Court hall up to the mark? a) Yes b) No

08) What can be improved?

Questions related to Computer

1) Are the Courts equipped with computers?

2) Does the Court have internet connectivity? a) Yes b) No.

2a) If yes of what kind: a) Cable to selected computer b) Wi-Fi secure c) Wi-Fi Open

3) Is there an electronic machine available for litigants to check their case status?

a) Yes b) No

Administrative Wing

01) Total number of staff provided to each court?

02) How many permanent, temporary or ad hoc employees are working against sanctioned posts (to be specified individually) and how many daily wagers are working?

03) How many vacant posts continued to exist?

04) Are there any guidelines for number of courts and the number of sanctioned post as a ratio of population or number of cases or any other metric?

4a) If yes, then briefly explain.

05) What is the sanctioned strength of employees under the administrative control of the Judge or the presiding officer of the court, Special court?

06) Do the court employees have an employee's union?

6a) if yes do they go on strikes?

6b) how many times in a year?

07) How many employees are under suspension and the period thereof? State reasons for the same:

08) Do the employees come on time and work effectively?

09) What can be done to improve punctuality and regularity of staff? Suggestions

10) Your district has been allotted a) Senior Court Manager b) Court manager.

11) Does Court Managers in your district need strengthening?

12) What sort of work previously done by Judges has been taken over by Court Managers?

Judicial wing

01) How many cases are kept on daily board by each judicial officer?

02) How much time is required by each judicial officer for remand work and other judicial work?

03) How much time is required by a judicial officer for administrative work?

04) Availability of public prosecutor in each court:

05) Availability of Government Pleaders in each court:

2.9-Profile Study of Team:

S.No	Name	Description
1.	Dr Dushyant Mahadik	Faculty at Administrative Staff College of India with 13 years experience in process studies, management and finance. BE (Shivaji University), MTech (IIT Bombay), PGDM (IIM Ahmedabad), PhD (University of Hyderabad).
2.	Adv Smita Shah	Practicing advocate at the High Court of Andhra Pradesh and Telangana. BSc, LLB with 18 years experience.
3.	Kavya Guglani	Commerce professional with 1 year experience. BCom, M Com, CA-IPCC.
4.	Hussain Aamir	Practicing advocate at the High Court of Andhra Pradesh and Telangana. Law apprentice with BA LLB (Osmania University)
5.	Adv Megha Gaikwad	Practicing advocate in Maharashtra sessions court (BA, MSW, LLB) with 2 years experience
6.	Anjali Bansal	Researcher in Economics (MA, BA Hons), currently Young Professional with Niti Aayog.
7.	Manoj Sattar	Law apprentice with BA LLB (Osmania University)
8.	Swetcha Tekuru	Law apprentice with BA LLB (Osmania University)
9.	Saraunissa Begum	Sociology researcher with 2 years experience (BCom, MCom, MBA)

Annexure 3.1 Malaysia Court Backlog and Delay Reduction Program - World Bank Report(Abridged)

Introduction:

1) As per the report, since the late 1980s, Malaysian Judiciary's integrity and speedy delivery of decisions declined dramatically due to various factors. In late 2008, it began a reform program aimed in particular at the second problem i.e. speedy delivery of Justice, through a delay and backlog reduction exercise, and indirectly, at the first, by more careful monitoring of judges' productivity. While corruption does not appear to be the major complaint of court users, the reform program also worked to target and eliminate what does occur.-The approach taken was to up the pressure for productivity in the hopes that this would drive out the less committed.

2) The Malaysia court backlog and delay reduction program reform was designed and implemented by the Malaysian Judiciary during the period from late 2008 to early 2011. The reform team (the Chief Justice, the President of the Court of Appeal, Chief Judges heading the two High Courts and other members of the Federal Court) focused their efforts on a few of the most congested judicial centres, and especially on the Civil High Court Divisions in Kuala Lumpur and Shah Alam. Over the period the program was gradually expanded to other High Courts in West Malaysia. East Malaysia had its own program, which was coordinated to a large extent with the West Malaysia effort. Although conducted over a very short period, this reform has been able to produce effective results. The success of this reform provides a counter-example to contemporary pessimism about the possibility of the judiciary improving its own performance by implementing concrete measures. Moreover, this reform was successful in a country which has the usual contextual obstacles which are causing logjams in reforming many other judicial systems.

3) "The report is an external review of the Malaysian Judiciary's recent reform efforts, the study describes a model and lessons applicable to court systems elsewhere that are facing similar problems or wishing to improve other aspects of their performance."

The Reform Program:

4) The program's basic components were the following:

(A) Creating an Inventory of cases:
"An Inventory of cases held in courtroom files throughout the country (not just limited to the targeted courts) and the creation of improved physical filing systems so as not to lose this information or to allow courts to again lose track of their caseloads."

(B) The purging of "closed cases" and the separation of inactive ("hibernating") cases for rapid closure or further processing (depending on the interest of the parties):

"Targets were set for the elimination of older cases. The initial goal was the termination of all cases over a year old by end of 2011 (revised to mid-2012) for High Courts in target districts, and guide lines to this effect for other courts at all instances and districts."

(C) Introduction of "Case Management" (Pre-Trial processing of cases):

(i) Introduction of Case management was accompanied by the reorganization of High Court judges and staff in the target centres and the designation of "**Managing Judges**" to oversee the exercise. The Managing judges were selected from among the core reform group, but as they still had to perform their normal duties (on the courts to which they were assigned) they delegated day-to-day oversight to other officials who in turn reported to them. The initial reorganization took staff (deputy and senior assistant registrars) out of the courtrooms to which they had been assigned and put them into a **Managing Judge Unit (MJU)** for each High Court Division where they handled preliminary matters and also closed cases in which the parties were no longer interested in pursuing.

(ii) In the MJU, staff prepared cases for handling by judges in either of the two tracks (or in the third M Track where it existed), ensuring that the parties had submitted the necessary documentation, lists of witnesses, and arranged for summonses for the latter. They could also close cases administratively (for lack of action or expiration of the time limits), encourage settlement, and make basic decisions on pre-trial matters (although these decisions might be resubmitted by the parties to the relevant judge). It is well to remember that as members of the Judicial and Legal Service, the deputy and senior assistant registrars usually had worked as magistrates previously.

(iii) This process, nearly entirely effected through Court Rules and Federal Court directives and circulars, was resisted by some judges because it took pre-trial matters out of their hands, and by many lawyers, because it imposed strict deadlines and usually kept them in the dark about which judge would hear the case until after the pre-trial management when the case was finally fixed. However, it proved extraordinarily effective in moving ahead both old and new cases.

(iv) While the Judiciary has a Case Management Unit (CMU) attached to its Statistical Office, it relies on the manual compilation of statistics supplied by individual judges or the MJUs. Contrary to what its name suggests, the CMU does no "managing" but rather helps the Court get an overview of overall system progress. For example, the witness statement is now used in civil cases as a substitute for a lengthy examination-in-chief. Among the further changes to be implemented, some of which are still under consideration, are the following:

(a) Adoption of plea bargaining for criminal cases.

(b) Simplification of introduction of evidence for criminal cases – in essence the admissibility of written documents for the evidence-in-chief (initial witness testimony) as already allowed in civil cases.

(c) Further simplification of the High Court and Subordinate Court Rules to increase efficiency and make for a new "friendlier" court procedure.

(d) Increase in the jurisdiction of the session and magistrates courts to reduce case volume in the High Courts.

(D) Introduction of a "Tracking system" to facilitate the closure of older cases.

(i) This involved separation of cases or issues that could be resolved on the basis of affidavits (the A Track) and those that required full trials (the T Track). Judges were assigned to one or the other track and were given weekly quotas of cases by the MJU. The tracking system not only involved dividing the judges; it also required a reorganization of staff. Deputy and senior assistant registrars who had been assigned to individual judges were put into a Managing Judge Unit (MJU), usually one for each Division.

(ii) Performance in each district (state) was supervised by a Managing Judge. Most of the latter came from the Federal Court, but Appeal Court Judges and the High Court Chief Judges were also assigned to this role. Since the Managing Judge (who also performed his other duties in whichever court on which he normally sat) was not always present, a designated "managing deputy registrar" or in one case an "organizing judge," selected from among the High Court judges, supervised day-to-day operations for each MJU and the courts it served. The latter officers "fixed" cases(assigned them to judges),scheduled hearings and trials, and generally tracked performance. The MJUs report directly to the Chief Judge.

(iii) Setting Targets for Case Processing: In addition to the targets for backlog reduction, the courts have been given targets for processing new cases. These are moving targets – changed (and often pushed up) on the basis of experience. Among those applied to the New Commercial Courts (NCC) in late 2009 were the following:

• Processing of documents on day of filing

• Return date within 3 months for writ summons

• Hearing date for Winding up petitions within 2 months of filing

• For other cases, case management within 2 weeks of filing

• Hearing date for A Track cases before Judge within 2 months of filing

• Full trial (T Track cases) scheduled and completed within 9 months of filing. Other, more recent targets for other jurisdictions include:

• Termination of corruption cases within one year

• Termination of uncontested divorces within 2 weeks. These targets affect both judges and lawyers, and judges' compliance with them is closely monitored.

(iv) The Court tracks performance through reports generated at the courtroom or Division level, using statistics generated there, it is not apparent that it has much interest in a global database or understands its future uses; those interviewed were not sure the database in fact formed part of the initial contract. The Chief Justice has asked the IT Department to compile its own Excel database using the daily reports from each judge, but this measure is really not a substitute and it is unclear how it will be used – possibly to limit the manual compilation of global statistics which inevitably produces errors.

(v) The current system involves three numbers – one for the year, one for the issue (e.g. violent crime, uncontested divorce, civil interlocutory appeal), and a sequential number apparently corresponding only to the year (not the second issue-specific figure). A better, but no more complicated system would feature the year, the court or intake office, and the sequential number, based on both. A fourth figure, corresponding to the general matter (Civil, Family, Commercial, Criminal, etc) could be added, but unless incorporated in the numerical sequence, is really

(E) Introduction of Court Recording and Transcription (CRT) equipment.

(F) Development and installation of an automated Case Management System (CMS).

(i) The CMS automated some manual processes, provided courts and court complexes with registries of case filings and events, and introduced modules to handle e-filing, programming of hearings, and the like. The new procedures and reporting practices that the Judiciary introduced at the start of the reform will be completely automated, thereby reducing the tedium and probable delays caused by manual processing of records.

For example, programming of hearings which courtroom administrative staff often does using large paper calendars will now be nearly automatic. The CRT equipment should speed up hearings, and while the queuing system and e-filing largely benefit lawyers, both also eliminate a certain amount of back office processing and its potential for generating delays and errors. At the courtroom and court complex level, the installed CMIS includes a historical registry for each case, which is used to generate the basic reports sent to the centre, as well as the daily reports supplied by each judge on case movement.

(ii) The courtroom level registries should pick up nearly 75 percent of all cases filed because of the focus on the most congested districts, and if not under the vendors' current scopes of work, then in a future contact, they could be used to create a global integrated database (to accompany the global centralized library – accessible to all authorized court staff – of all electronic case files). When the database is developed, the current registries should be modified to eliminate their surfeit of text entries (as opposed to coded ones). This will facilitate analysis of its contents.

(iii) The various uses of CMS are a little confusing. It is applied to pre-trial processing of cases as practiced by the MJUs, to the type of software developed by the two firms, and has been adopted by the contractor Formis as the name for its own version. For this reason, the term CMIS (Court Management Information System) will be used below to refer to the type of system being developed by the two software firms.

A Further Note on Unique Numbers, E-files and E-archives as anyone who has searched their paper and e-files for a document knows, both processes can be equally frustrating. As paper

files are converted to electronic format, there will be a need to develop a good e-archiving system. This is one of the reasons the unique number becomes important, as it should allow the case to be retrieved wherever it is located. However, judges, courts, and the entire court system will need to ensure their archiving system is as easy to use as the current physical files. Paper files have one advantage here – they are easy to see, and as was done in the physical backlog reduction program, can be moved into piles, or even separate rooms to facilitate processing, In a virtual filing system, this is also possible, but software must be modified for this purpose. Since none of those interviewed mentioned the virtual archives, it is a good bet these will need more work. The front-end of the process (e-filing) has received most attention, but now the backend should get still more emphasis so that the courts are not swamped with millions of electronic files with inadequate means of navigate ng through them.

(iv) **Queuing System:** A second element, introduced in the larger court complexes in Western Malaysia is the electronic queuing system, intended to facilitate holding of hearings by registering the arrival of attorneys, on the day the event is scheduled and letting them know where they stand in the queue. Once registered at the court, they can also leave and call in using SMS or texting from their mobile phones to verify the time they must return for the hearing. Attorneys arriving for a case management or chambers matter register at the court building, and when both parties have checked in, the hearing is placed in the next slot in the queue. If one lawyer arrives and the other does not, the former can seek out the registrar to determine how to proceed. Hearings are scheduled for the morning, but previously there was no way of knowing when or whether a hearing would be held owing to the absence of one or both attorneys. This problem has now been resolved. Attorneys interviewed in Kuala Lumpur were not sure how much time this saved them, but did appreciate the transition from the former chaos and the opportunity to do other work while waiting. Although less necessary in smaller courts, the system will be gradually expanded to them, because of the benefits for both staff and lawyers. It eventually can be used for trials as well (where the presence not only of the lawyers, but also of other parties is required). Similar mechanisms are used in other judicial systems and are often part of a reform program. However, the Malaysian version is especially sophisticated because of the combination of electronic scheduling with the attorney's registry of their presence. This avoids the problem of "definitive" scheduling of a hearing which will be postponed because one of the lawyers has not appeared.

(v) Automated CMIS and E-Filing: The most complex part of the ICT contract, and one still under development in West Malaysia, is the creation of an automated case management information system with its various modules. A first module, already installed but still handled partly manually, registers the initial civil filing, enters the pertinent information into an electronic database, assigns a case number, and adds scanned copies of the accompanying documents. It also calculates fees and once these are paid (in the same building), issues a writ of summons for delivery by the attorney (or if s/he wishes by the court for an additional fee).

There is also a comparable model for criminal cases, but it was not examined for this assessment. The initial version, which required manual transfer of the relevant data to the court database, is already being replaced with "internet filing" which provides forms to the filer from which data can be extracted automatically. It was reported that 40 firms were

already using this method, although it was introduced between the initial fieldwork in January and the follow-up visit in May and requires several additional steps to be taken by any potential user (e.g. registration of digital signature).

(vi) One of the few problems observed is that the CMIS will continue to use the older method for assigning case numbers, meaning that cases do not receive a unique number (which is to say one not shared by any other case ever registered anywhere in the court system). Currently, numbers are unique to each intake centre but not system wide. The situation could be remedied by changing the formula for creating a number (and thus adding a code for the intake centre or court where it enters) the system goes fully on line, in which case, the sequential number would incorporate the universe of filings. Given that all courts will not go on line for some time, the former solution is most practical (and in fact has reportedly been partially adopted as an "invisible" numerical addition to the basic case number). Unique numbers are essential for tracking a case in its trajectory, however convoluted, through the entire court system; they should thus be retained even when a case is transferred to another court or instance for whatever reason (although the second court or instance may assign an additional number for its own bureaucratic purposes). However, such thorough tracking is really only possible with a fleshed-out CMIS, for which reason its importance was probably not recognized in the latter's initial design.

(vii) Until now the entire process of admitting and registering a case had been done manually, and although the admitting clerks are extremely efficient, additional data had to be recorded manually and all documents went into a physical file. It is the intent of the Court and the system designers that by the end of the contract (June 30, 2011), most of these steps will be automated and for those who chose to e-file, all documentation will be entered directly into an electronic file with no need for paper copies. For those preferring to bring their filings directly to the court, the process will still be more agile, but data will have to be entered and documents scanned by the court staff. E-filers will also be able to pay their fees by internet using a credit card. Whether e-filed or physically delivered to the courts, the case file will be electronic and paper copies of documents will no longer be retained. Currently bar codes are placed on written submissions for their easier location in the files although this obviously will not be needed once files are completely automated. The perceived advantage of this system, aside from saving space (and trees) is that the file will be accessible to many users simultaneously, thus saving the time of circulating it among them, or only of locating it for transmission to the immediate user. However (see box), for this to happen, the virtual archive may require further organization.

(viii) It is the e-filing and electronic case files that have captured most attention, but another very important aspect of the CMIS should be the creation of an electronic database recording key information and major events for each case (another reason for emphasizing the unique number). This is different from the electronic case files and registries although its contents would be based on data entered there. The files will include scanned documents and eventually may be linked to the CD recordings of hearings. The current registries kept at the courtroom and court complex levels are largely records of case events (scheduling and

minutes of hearings, basic information taken when the case is filed, and so on). Because of the large quantity of text entries, they do not permit much quantitative analysis, but can be used to generate pre-programmed reports. The database should comprise largely coded (not text) entries, replicating what is in the registries, but also allowing free-form analysis at the local and central levels (where analysts can focus on system-wide performance trends). It is thus a vital tool in courtroom and system management. The web-based design would allow considerable additional analysis for those with access to it. Access policies will of course have to be developed, not only to protect the data entered but also the privacy of parties.
Further Use and Limitations of the Existing CMIS Database: In courts with the CMIS already installed, staff in the courtroom and in the respective Managing Judge Units and Registrar's offices uses its database, though still in rudimentary form, to generate the required daily and monthly reports on caseload movement and to otherwise monitor how cases are progressing.

Future Adjustments to the Entire ICT Package: Finally, it should be recognized that the CMIS and other ICT elements as delivered at the end of contract will require further adjustments. The automated component was developed extremely rapidly and there are many details requiring attention (e.g. storage of CRT audiovisual transcripts or CDs, improvements to the virtual archive, access policy for the CMIS database, gradual phase-out of certain elements added over the short run that many no longer be required with the movement to a fully electronic system. Two items here are the bar codes used to identify documents and the entire physical filing system, including the space it currently occupies). Moreover, almost inevitably some aspects of the system will require more work, either because they do not function as intended or because the intentions were misguided. System development has been complicated by the absence of adequate configuration control, either because either party understood its importance, or because the contractor was willing to be more flexible in accepting constant changes and additions than is normally the case.

Configuration control or management simply means imposing a cut-off point on system requirements – "we are building Word 6, and anything beyond that goes into the next version, Word 7."51 As of late January 2011, two months before the contract was to end (and before a subsequent no-cost extension), there were still on-going discussions, for example, on what information would be automatically exchanged with other agencies (police, prosecution, prisons, and the bar). Apart from last minute crises (e.g., the report that the police had decided not to participate in the exchange),the issue here is that constant revisions to basic functionalities or the details of their design can produce their own contradictions. All of this will need to be sorted out in the follow-on contract, and the parties should really try, during the first year, to dedicate their efforts to that, system maintenance, training, and expansion of the system as is to other jurisdictions. Adding more functional elements or enhancements during that early period will only complicate the production of a system that works. Future contracts to develop additional applications or anyone else contemplating a new system.

(G) Creation of High Court Commercial Divisions to handle more specialized matters (Intellectual Property, Islamic Banking, and Admiralty).

(I) In target centers, creation of "new" courts (specialized High Court divisions in Civil and Commercial Law, called the NCvC and NCC, respectively).

New Courts to handle recent cases and their reorganization, eliminating the two tracks (not needed any longer) and the external Managing Judge Unit (JMU), but leaving judges with targets for productivity and delay reduction. Once the backlog is eliminated, all courts will follow the new organization and procedures.

Delay reduction is more difficult to measure without an automated database (and sometimes even with one). Lacking this tool, the Court's strategy has been to set targets for courts – the processing of all new cases within a given time (usually 9 to 12 months depending on the court and material) – and monitor compliance. Results indicate the program is working, especially in the new courts (NCC and NCvC) where monitoring is facilitated by the process used to distribute cases. Once a new court is set up in either the commercial or the civil area, it receives all new cases filed during the next four months. After this, another court is created (with judges transferred from the old commercial or civil courts, as they run out of work) to receive the next round of cases, while the first court processes what entered earlier.6 The Judiciary now tracks and produces reports and tables to check whether each court is meeting its target of processing all its allotment within nine months of the cut off date. Data presented in Chapter III demonstrate both the progress and the monitoring mechanism. Since neither the manual nor computerized system tracks the duration of each disposition, the target is a sort of average. Some cases may take a year and others six months, but so long as 90 percent of them are closed in 9 months, the performance is deemed satisfactory. Since their creation the NCCs and NCvCs have been reducing their caseloads at a fully adequate pace and in fact are ahead of the schedule. The growing number of courts that are fully current (i.e., no longer handling cases entered before 2010) also indicates (logically) that their disposition times have improved as well.

The process can be stopped after the creation of four courts, with the reception period being cut back to 3 months. This would allow a rotation whereby a court spends three months receiving cases, and spends 9 months processing them. This is a pretty unusual approach and it probably would not work well in other jurisdiction . It is not clear whether it was invented with the monitoring issue already in mind, or whether monitoring has simply been adapted to this format. In any event for the NCC and NCvC it has worked well.

61. Further Court Reorganization: Tracked cases initially included both pending cases and new entries, but as there was a further emphasis on eliminating the older cases, this could have created delays in processing new filings. While two sets of goals were established – one relating to the gradual elimination of older cases in batches (first those entered before 2005, then before 2008 and so on) and the other to resolving all new cases within fixed time limits (always under a year for full trial cases and less for affidavit cases), it was apparently the first that got priority. Ageing lists thus only went by year of entry and did not "age" new cases by months. However, any such problem was soon eliminated by a still newer policy, adopted first in Kuala Lumpur and then in Shah Alam. This entailed the creation of New Commercial Courts (NCC) and then New Civil Courts (NCvC) which were to receive only cases filed after their creation. As the backlog was reduced, judges from the two other tracks were transferred to these new courts (physically located in the same buildings – this was a change

of nomenclatures and also of working rules, not of location) along with the deputy and senior assistant registrars no longer needed in such quantities in the Managing Judge Unit. The new model will thus return to the former courtroom organization, allowing each judge to handle both A and T track cases and having case management done by their own staff rather than by a separate unit. This is not quite full circle as judges will now have targets for case resolution times. In the NCC and NCvC, the overall goal is to resolve all cases in 9 months or less. As discussed in Chapter III, this goal has been met.

The Court of Appeal and the Federal Court were not excluded from the process. Within the former, four special panels were set up to facilitate early disposal of pending civil and criminal cases. The fourth and last panel hears appeals from the New Commercial Courts to ensure that the rapid processing in the High Court is not defeated by a slow appellate process. Although cases are fixed to panels earlier on, the members of the panels rotate and are not assigned till the case is ready to be heard. This practice is intended to reduce any effort by lawyers to influence their decisions or to withdraw the case so they can get a "better panel." Late "fixing" of cases for multi-judge High Court divisions is practiced for the same purpose.

(J) Mediation:

One immediate result of the greater emphasis on moving cases ahead and setting firm dates for submission of documents, other pre-trial matters, and full hearings and trials has been a tendency of lawyers to see the benefits of out-of court-settlement or court-annexed mediation. Mediation has been widely used in road accident claims at the session courts. On several occasions judges commented that when firm dates are set and the parties and their lawyers know they will be respected, "their palms begin to sweat" and they start to see the advantages of taking the less complicated route. This sometimes means withdrawing the complaint or going for a settlement with the other party. However to facilitate matters, in April 2010, the Judiciary introduced the possibility of court annexed mediation for commercial, family, and other civil cases. As the concerned stakeholders are still debating a new mediation law, advances to date have been through less formal arrangements, making the services available and encouraging lawyers and unrepresented parties to use them. The Court's reading on this is that inasmuch as mediation depends on a decision by the parties, a law, while helpful, is not required for it to be used.

(ii)The practice is new, but given Malaysia's apparently highly practical approach to such issues it seems unlikely it will be challenged legally. Of course parties can always decide not to comply with a mediated agreement, but that is also true of a more formal judgment. In court-annexed mediation, any settlement would in fact constitute a court order and would be enforceable as such. Whether this will put compliance rates at the same level of those for judgments remains to be explored.

(iii) In Malaysia, court-annexed mediation is done by a judge, although usually not the judge who would hear the case. The one exception was the Family High Court in Kuala Lumpur, but only because it has only one judge. However, should disputants in that court desire another arrangement, mediation can be transferred to another judge. Global statistics on mediated cases were not reported, but numbers of those formally mediated (as opposed to informal settlements) still appear to be low although the system does work to the extent of reaching an agreement for those who choose it. The Commercial Division of the Kuala Lumpur High Court reported a 50 percent success rate (agreements reached) for the one

month covered. The Family High Court Judge for Kuala Lumpur claimed that her success rate was about 75percent; the number of cases mediated was not provided. Formal mediation remains a fairly new concept in Malaysia and it is thus not surprising that use rates remain low. There is also the issue of whether parties to the agreements reached through mediation will understand they are as much court orders as a formal judgment.

(K) Other Measures:

(i) Build up IT capacity to attend hardware and develop software.

(ii) Develop a judicial planning capacity and review current administrative arrangements:

(iii) Consider development of court administration as a separate judicial career: This is a follow-on suggestion to the prior point and stresses the importance of ending reliance on generalist staff to carry out what should be increasingly specialized work. Judicial and Legal Service staff serving in administrative positions (within courts and in the general administration) appeared to be hard workers but especially as the Judiciary moves into more modern and proactive management modes, it will need personnel who hone their expertise over decades (and not just a few years).

(iv) Training: This is a high priority item for the Judiciary's second stage program and the discussion in its report on the initial reforms (Federal Court of Malaysia, 2011) mentions several variations, including a program for judges and an Institute for all legal professionals(the Malayan Academy of Law). Training is important, but often involves investing large amounts of funds on activities with little or no impact on performance because of inadequate design and delivery (and not because training is not needed). It is thus Recommended that before seeking funds, the Judiciary and other proponents do a thorough study of training needs (see below) and also investigate the funding implications of any specific proposal.

The program has also been successful in discouraging some of the usual causes of delays – and especially the frequent adjournments of hearings. Adjournments are not systematically monitored, although they are included in the daily reports. However, the pressure on judges to meet their quotas appears to be sufficient incentive for them to be firm on hearing and trial dates.

I. The total number of judges is unusually low, even for a common law country, but Judicial and Legal Services staff assigned to courtroom positions also does some processing of cases. When this group is included, the judge-to-population level rises from 1.5 to 2.4 per 100,000 inhabitants. Moreover, the state courts (Syria and traditional) as well as a system of administrative tribunals take up some demand. In any event, judicial caseloads, while substantial, are not large enough to explain delays and backlogs, and the reform described herein has thus worked on addressing other factors accounting for them. There is no magic formula as to the right number of judges – if judges can handle the cases assigned in a reasonably efficient fashion (as they now appear to be doing in Malaysia), the number would seem to be adequate. Many countries with much higher ratios and much lower

individual caseloads than in Malaysia cannot keep up with their work, suggesting that much depends on internal organization, procedures, willingness to counter lawyers' dilatory practices, and how caseloads are filtered.

Unlike reforms attempted in other countries, usually with more limited results, the Malaysian judicial program limited its early efforts to a single goal – backlog and delay reduction. This is, as suggested above, hardly the limits of its vision, but this single-minded focus over the shorter run is arguably a part of the explanation of its success

Key Indicators of Results as Used Internationally and as Adapted to the Malaysian Program:

Conventionally, several indicators are used to assess judicial performance and thus to monitor backlog and delay reduction programs of the type undertaken in Malaysia as well as other trends. Any evaluation of performance typically uses several of them as each provides only a partial view of what is occurring (National Centre for State Courts, 2007).

(a) Judicial productivity – caseloads per judge or case dispositions per judge, annually or for shorter periods. Comparisons across systems are difficult because many factors determine a "reasonable" caseload, but in any given system, increases in per judge caseloads and especially number of dispositions would be a positive sign

(b) Clearance rates – cases disposed (by whatever means) over new filings for each year

(c) Average disposition times for cases closed – cases can be grouped by categories for greater detail.

(d) Ageing lists – showing age of active caseload, often by grouping cases into categories (e.g. less than 30 days since filing, 30-60 days and so on)

(e) Number of cases pending with duration of more than two years. Sometimes the size of backlog or annual carryover is tracked as well, especially in the early stages where it may be quite large.

The Malaysian Judiciary uses a slightly different set of indicators based on its own experience and goals:

(a) Pending caseload carried over from one period to the next, sometimes differentiated by age of cases—this was especially important for the goal of reducing backlog and thus cases filed in earlier years.

(b) Ageing lists – tracking absolute number of cases still active by year of filing. This is an indirect measure of delay as well, especially if categories are refined to the month rather than the year of filing.

(c) For the new courts (NCC and NCvC), progress in disposing of new caseloads within the targeted time limits. This is a proxy for disposition times. It is tracked but not as systematically for other courts. It is facilitated by the way the new courts are organized which in itself is unusual and is further explained in a later section

For a court system with no reform aspirations, the current arrangements may well work. But they are evidently incompatible with a more dynamic approach to organizational development. It is thus recommended that the courts seek a way to do one or more of the

following, requiring both structural changes and alterations in the career paths of those in key positions:
(a) Create a Planning Office staffed by individuals trained in planning techniques (use of statistics to make projections, development of alternative scenarios for resource deployment, multi-year budgeting and so on).

(b) Reconfigure the Statistical Unit and staff it with individuals trained in basic statistical analysis. PhDs in statistics will not be needed (and in fact may not be desirable) but those who can do policy-oriented analysis will be a decided plus. This is probably not a job for Judicial and Legal Service Officers, especially if they rotate in and out with the typical Frequency. However, assigning a judge or two to the unit, or creating an advisory board composed of judges might be considered.

(c) Strengthen the coordination among the Planning, Statistical, Financial Management and Human Resources Units so that they can collectively determine short, medium and long-term scenarios for resource needs and deployment.

(d) Regain control of its Development Budget, or at least the ability to program it. If the Legal Affairs Division (of the Prime Minister's Office) wants to continue as a "project implementer," that may work, but it should not do the Judiciary's planning for it.

(e) In the case of all administrative units, find a way to keep key staff and give them promotions or raises in place rather than losing them to the current career trajectory. End dependence on Judicial and Legal Service staff for these positions, which by rights should be judicial-administrative careers on their own.
This last section expands on an idea forwarded in the introduction, the value of reviewing the Malaysian reform as an example, model and source of lessons for other would-be reformers. The most striking aspect of the Malaysian example is the amount accomplished in very little time and moreover the fact that this was done before the large investments in ICT came on. line. This is not to discredit the latter, but simply to point out that there is no need to wait for ICT or to lament the lack of funds to finance it in order to produce some important results. In summary the lessons derived from the experience are as follows:
(a) A reform's success is largely conditioned by the ability of its leaders to identify problems and define concrete, measurable goals for resolving them. A reform that simply aims at "improving performance" without defining specific targets is less likely to accomplish anything. Quantification is important, no matter how objectives are further defined.

(b) Increasing efficiency is a good start, representing a sort of "low-hanging fruit" in the goal hierarchy.

(c) There is a logical progression to reforms, and the Malaysian judiciary recognized and acted on this principle. It may be hard for reformers to get excited about some of the preliminary steps (e.g. case file inventories), but if they are skipped reforms will founder.

(d) One preliminary step usually recommended, a thorough assessment or diagnostic of the judiciary's situation, was skipped in Malaysia. However, the *Performance Management and Delivery Unit (PEMANDU)* crime reduction program did begin with a diagnostic and others have been recommended in the present report. It does not appear that the judiciary's reform

was adversely affected by this shortcut, but there were some additional special circumstances. First, the Court's working hypothesis, that there was delay and backlog that could be eliminated rather quickly, was based on prior, if less systematic, observation by the reform leaders (and especially the Chief Justice). Second, the way the reform was organized (the sequence) meant that the early steps served to verify the hypothesis. Had the inventories discovered, contrary to expectations, that all pending cases were recent ones and moreover active, the program would have needed modification. Third, there was constant monitoring of progress which inter alia allowed the identification and resolution of additional problems along the way. Thus, for the reform's immediate purposes a further diagnostic was probably not needed (would only have added delays and possibly weakened the initial consensus), but others contemplating similar programs should not assume this applies equally to them.

(e) A first, essential step in any reform is to put what is there and establish a system for monitoring performance. Neither one requires automation, although the monitoring system can certainly be improved once ICT is introduced. Without order and without information, it will be very difficult to plan, implement and measure the effects of any further reform efforts.

(f) It is generally recommended that prior to automation, courts improve and simplify their work processes. This is advice that few heed, but whether as a conscious strategy or simply a question of necessity, this did occur in Malaysia. This left the contractor with the task of automating an already improved process, facilitating and doubtless accelerating activities that had been done by hand (e.g. programming of hearings). How flexible CMS (the Formis software) will be as regards future changes remains unclear, but it has certainly done a good job of automating the improved manual procedures as well as adding items like internet filing and CRT that could only be done with ICT.

(g) While seemingly simple minded, an inventory of cases and an improved filing system are essential parts of the "putting in order" phase. On the basis of both these steps, courts, or for that matter any agency, can most probably substantially reduce existing workloads and so facilitate further reform.

(h) A tracking system, like but not necessarily the same as that introduced in Malaysia is a recommended means for further reducing backlog. The logic behind any such system is to separate cases by the level of effort required for their resolution – in the future a similar logic can be applied to more sophisticated forms of differential case management

(i) Judiciaries often underestimate the importance of having a global database with raw data (as opposed to statistics), and here the Malaysian courts are no exception. They have done an excellent job of utilizing basic statistics to encourage judges to improve their work, but the continuing absence of a global database is a concern. The absence does not limit the Judiciary's current plans, but it will impact on the formulation of the next stages.

(j) Once the low-hanging fruits have been harvested, the next challenge is to define the further directions of reform. Although Malaysia can still spend several years terminating the first stage, it will need to consider where it will go next and how it will get there.

(k) Courts are only one part of a justice system, and as the PEMANDU study clarifies in the case of crime reduction, many other actors are involved. Much the same is true of more ordinary dispute resolution as discussed in the prior section on additional studies. When attention is not paid to these other agencies, and comparable reform programs established, the impact of even the best court reform will be limited.

(l) It is easier to carry this all out with substantial funding, but many of the measures introduced by the Court were accomplished with few additional funds and others (the ICT contracts) could be simplified and thus the overall costs cut back. This might produce less dramatically rapid results but over time the same types of improvements should be possible.

(m) Committed leadership is essential, and it is also important to ensure such leadership persists over the longer run. Broadening the reform team (to include the President of the Court of Appeal, the two Chief Judges and more members of the Federal Court) as was done in Malaysia is thus a recommended strategy. Reforms have progressed with only one high-level leader, but they are easier to reverse when that is the major source of their momentum.

Annexure 6.1 : Commitment of Stakeholders to Pendency Reduction

Sr No	Response to Open Ended Question - "In individual capacity, how can you contribute to reducing delays and pendency of cases ?"
Judges	
1	1.Giving priority to old cases . 2.Proper court management .
2	1)I will take recourse of mediation and Lok adalat . 2)Use powers u/s -258 and 256 cr.p c.& to make rules for prompt services and summons on witnesses .
3	use of video conferencing be increased for examination of witnesses.
4	Do not grant adjournments often. Pass effective orders immediately.
5	a) Priority of old case . b) Priority of trial Prisoner. c) Instead of hearing on stay petition ,used to disposed off on merit (Criminal revision etc).
6	a)To frame charge on the day of filing the charge sheet b)Club Adjournment . c)Not to release accuser if trial held up because of him.
7	By adhering the statutory provisions of law as far as possible .
8	By adopting strict measures for service of process & reducing unnecessary adjournments .
9	By conducting trials as expedite as possible.
10	i)I will take recourse of mediation and lokadalat . ii)Use power u/s 258 of CRPC and order for prompt service of summons for production of witnesses.
11	By curtailing adjournment for using sec 309 of CRPC for also by working tirelessly.
12	By destiny my entire time in the court to record evidence and utilize the time at home in studying and preparing the judgment . I unveil my leave and most of the time plan my leave in advance so most my Bound is not disturbed .
13	By doing the job is best possible way in current circumstances .
14	By framing charge on the first date and matter by keep ready for trial but this possible when there is no old pend ency in court .
15	**By giving less adjournments ,regular and punctual dias sitting etc.**

16	By keeping old and urgent matter thrice in a month or for more time .
17	By properly managing daily board (4 respondents).
18	By reducing unnecessary adjournments
19	By referring matters to Lok adalats and mediation .
20	Case management ,board management not so adjournments and older cases be forced in preference .
21	Considering the disposal norms - a judge is very much concerned in reducing delays and pendency of cases. I am leaving no stone unturned in speedy disposal and in reducing pendency of cases. I am totally involved towards the above target. I am a acting to the best of my abilities to achieve above aim. I am contributing by all means to reach the above goal.
22	Consistent Persuation for securing presence of accused &Witnesses.
23	**Day to day trial is the best remedy to reduce delay .**
24	Giving top priority to targeted cases,giving short dates,imposing heavy costs for adjournments can reduce delays and pendency of cases.
25	I am doing my best to reduce the pend ency by keeping the matters with short dates .
26	I contribute by giving short dates for hearing.
27	I contribute by taking matters on top priority on daily hearing basis.
28	I used to observe next day's cause list at 5.45 pm i tried to study at home almost all the matters kept per others/said.
29	Identify the cases of like nature .so that they can be heard together identify the cases where in I.O or witnesses or M.O is same and keep those matters on same date etc .
30	Imposing costs if unnecessary continuously adjournments court .
31	Keeping scientific approach
32	Lok-adalat,mediation and speedy trials.
33	Making communication with the Bar to expendite the matter .
34	Making communication with the police machinery to serve the warrants and summons are need full to expedite the matter .
35	See that charge sheet is filed with presence of accused and on some day change is formal .
36	**Selecting cases to be tried in next months .**
37	The witnesses is to be examined on the same day .Daily board should be manageable, strict compliance in cases , timely passing order .

38	Time management .
39	To take effective steps for securing the presence of witness and matter should be put up for hearing day to day .
40	We can issue process when charge sheet is received there after on appearances of accused charge can be framed and summon may be issued to witnesses .
41	We must control over the frequent adjournment.Don't give the long dates whims of advocates .
Advocates and Prosecutors	
1	All possible manners (4).
2	Co-operating at every stage .
3	Fast track courts plea bargain effective measure .
4	Motivation
5	No, its in the hand of Honorable High Court .
6	There no binding on the number of filling cases single advocates it should be done .
7	Try to participate in every trial.
8	By working hard to reduce the pendency .
9	I will not delay the cases from my side.
10	Doing effective hearing and every date of hearing .
11	1. Ensure availability of witnesses. 2. Expert opinion got as early as possible .
12	To working efficiently in court Hours .
13	to compel witness to go to direct police for service of summons
14	Timely request both police staff and court staff to issue summons .
15	Regular updates.

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संगच्छध्वं संवदध्वं सं वो मनांसि जानताम्

Let us be together
Let us interact together
And may our minds
Comprehend together

– (Rigveda)

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